

OVERSIGHT OF THE PIPELINE SAFETY,
REGULATORY CERTAINTY, AND JOB CREATION
ACT OF 2011 AND RELATED ISSUES

HEARING
BEFORE THE
SUBCOMMITTEE ON ENERGY AND POWER
OF THE
COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS
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¹ The addendum to Mr. Wise's testimony is available at: <http://docs.house.gov/meetings/if/if03/20150714/103737/hhrg-114-if03-wstate-wises-20150714.pdf>.

OVERSIGHT OF THE PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT OF 2011 AND RELATED ISSUES

JULY 14, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ENERGY AND POWER,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:16 a.m., in room 2123 of the Rayburn House Office Building, Hon. Ed Whitfield (chairman of the subcommittee) presiding.

Members present: Representatives Whitfield, Olson, Shimkus, Pitts, Latta, Harper, McKinley, Kinzinger, Griffith, Johnson, Long, Flores, Mullin, Hudson, Upton (ex officio), Rush, McNerney, Tonko, Green, Capps, Sarbanes, Loeb sack, and Pallone (ex officio).

Staff present: Nick Abraham, Legislative Associate, Energy and Power; Will Batson, Legislative Clerk; Leighton Brown, Press Assistant; Allison Busbee, Policy Coordinator, Energy and Power; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor; Brandon Mooney, Professional Staff Member, Energy and Power; Mark Ratner, Policy Advisor to the Chairman; Dan Schneider, Press Secretary; Caitlin Haberman, Democratic Professional Staff Member; Ashley Jones, Democratic Director of Communications, Member Services and Outreach; Rick Kessler, Democratic Senior Advisor and Staff Director, Energy and Environment; John Marshall, Democratic Policy Coordinator; and Alexander Ratner, Democratic Policy Analyst.

OPENING STATEMENT OF HON. ED WHITFIELD, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY

Mr. WHITFIELD. I would like to call the hearing to order this morning, and I would like to recognize myself for a 5-minute opening statement.

This morning we are going to be conducting an oversight hearing on the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, and its implementation of the Pipeline and Hazardous Materials Safety Administration (PHMSA). I certainly want to welcome the interim Executive Director of PHMSA, as well as a second panel that includes representatives of the oil and natural gas industry, local government and witnesses with other perspectives.

It has been more than 3 years since the Pipeline Safety Act was enacted, and PHMSA's implementation has not been satisfactory.

Many of the mandates; at least 17 out of 42 included in the Pipeline Safety Act, have not been completed, including several described as key mandates with potentially large impacts on pipeline operations nationwide. The potential consequences of these delays are serious. In May, a significant oil spill occurred in Santa Barbara, California, and just days ago the same company reported another incident in Illinois. The committee has written letters both to PHMSA and this company seeking more information. It cannot be said for certain that full implementation of the Pipeline Safety Act would have made a difference in Santa Barbara or any other individual oil spill or natural gas pipeline explosions. Nonetheless, we owe it to the American people to ensure that all reasonable steps are taken to ensure the safety of the Nation's pipelines. The Pipeline Safety Act includes a number of such steps that have yet to be put into action.

The increase in domestic oil and natural gas production is clearly good news, but it does present significant infrastructure challenges. Whether it is oil, refined products, or natural gas, there is inherent risk in moving high volumes of product through aging and sometimes inadequate infrastructure. Part of the answer lies in constructing new pipelines and replacing old ones, but perhaps even more important is applying new technology to ensure the safety of the existing system.

Many experts believe that pipelines are the safest means of transporting natural gas and liquid hydrocarbons, but the Santa Barbara spill and other recent incidents underscore the fact that there is considerable room for improvement. It is important to understand why the timely implementation of the Pipeline Safety Act has proven so difficult, and particularly since more money has been given to PHMSA, and we would like to know how PHMSA can expedite this matter.

And as we begin to look ahead to reauthorization of this same statute, we are also interested in learning about PHMSA's priorities and if additional legislative steps should be taken.

[The prepared statement of Mr. Whitfield follows:]

PREPARED STATEMENT OF HON. ED WHITFIELD

Pipeline safety oversight is an important and ongoing priority with this subcommittee. This morning we will conduct our first oversight hearing on the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 and its implementation by the Pipeline and Hazardous Materials Safety Administration (PHMSA). I welcome the interim Executive Director of PHMSA as well as a second panel that includes representatives of the oil and natural gas industry, local government and other perspectives.

It has been more than three years since the Pipeline Safety Act was enacted, and PHMSA's implementation has not been satisfactory. Many of the mandates—at least 17 out of 42 included in the Pipeline Safety Act, have not been completed, including several described as key mandates with potentially large impacts on pipeline operations nationwide.

The potential consequences of these delays are serious. In May, a significant oil spill occurred in Santa Barbara, California, and just days ago the same company reported another incident in Illinois. We have written letters both to PHMSA and this company seeking more information.

It cannot be said for certain that full implementation of the Pipeline Safety Act would have made a difference in Santa Barbara or any other individual oil spill or natural gas pipeline explosion. Nonetheless, we owe it to the American people to ensure that all reasonable steps are taken to ensure the safety of the nation's pipe-

lines. The Pipeline Safety Act includes a number of such steps that have yet to be put into action.

The increase in domestic oil and gas production is clearly good news, but it does present significant infrastructure challenges. Whether it is oil, refined products, or natural gas, there is inherent risk in moving high volumes of product through aging and sometimes inadequate infrastructure. Part of the answer lies in constructing new pipelines and replacing old ones, but perhaps even more important is applying new technology to ensure the safety of the existing system.

Many experts believe that pipelines are the safest means of transporting natural gas and liquid hydrocarbons, but the Santa Barbara spill and other recent incidents underscore the fact that there is considerable room for improvement. It is important to understand why the timely implementation of the Pipeline Safety Act has proven so difficult and how PHMSA can expedite matters. And as we begin to look ahead to reauthorization of this statute, I am also interested in learning about PHMSA's priorities and if additional legislative steps should be taken.

Mr. WHITFIELD. We have two panels of witnesses this morning, and I will be introducing them right before they give their opening statement.

At this time, I would like to recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

OPENING STATEMENT OF HON. BOBBY L. RUSH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RUSH. Well, thank you, Mr. Chairman, for holding this important and timely hearing today on the issue of pipeline safety oversight.

Mr. Chairman, in the past, the issue of pipeline safety has been one that we have worked on in a bipartisan matter, and it is my hope and my expectation that we will continue to work on this important matter in the same tradition as we address this very, very important issue in this Congress.

Mr. Chairman, unfortunately, the issue of pipeline safety too often takes a backseat to other pressing matters until there is an accident or there is a tragedy that focuses the public's attention back on this issue. Of course, today's hearings take place against a backdrop of the major Santa Barbara pipeline breach that spilled 100,000 gallons of crude oil in May, polluting the Pacific Ocean, damaging Southern California beaches, and killing hundreds of thousands of wildlife.

Additionally, Mr. Chairman, just over the weekend there was another smaller, but no less troubling spill, in my home State of Illinois from a station operated by the Plains All American, the very same company that owned the California pipeline that ruptured just 2 months ago. Two ruptures in 2 months, Mr. Chairman.

So, Mr. Chairman, while this subcommittee continues to debate issues such as fast-tracking the pipeline permitting process, I think that it is imperative that we also examine the safety mechanisms we currently have in place to ensure that they are working effectively. And whether there are deficiencies in areas of resources or leadership, I believe there is much more work to be done in order for Americans to feel a greater sense of confidence in the agencies that are responsible for pipeline safety oversight.

Once again, Mr. Chairman, I applaud you for holding this timely hearing today, and I look forward to hearing from all of our expert witnesses.

And with that, I yield back. I yield to Mrs. Capps for what time I have left.

Mrs. CAPPS. Thank you, Mr. Chairman, and thank you, Ranking Member, Mr. Rush, for holding this hearing and giving me the opportunity to provide an opening statement.

I want to thank Chairman Upton and Ranking Member Pallone for a strong leadership within our committee on these issues, and for working with me to incorporate oversight of the recent oil spill in my district into this hearing. And I want to welcome my constituent, Dianne Black, from the County of Santa Barbara, who will be testifying on the second panel today.

And as was already mentioned, nearly 2 months ago, over 100,000 gallons of crude oil spilled from the ruptured Plains All American pipeline into the coastline of my district. The oil gushed from the ruptured pipeline, flowed down a hill, through a culvert, onto the beach and into the ocean along the pristine Gaviota Coast. From there, tens of thousands of gallons of oil spread for miles down the coast, closing popular beaches, valuable fisheries, devastating wildlife, and bringing back horrible memories of the Platform A disaster more than 45 years ago.

Since that devastating oil spill in 1969, the Santa Barbara community has dedicated itself to learning from that tragedy and working to ensure that it does not happen again. Sadly, even in a community as determined as ours, May 19 reminded us that spills are inevitable as long as we continue to depend on oil for so much of our energy needs.

I know the Plains spill in my district certainly is not the first pipeline failure, nor will it be the last. Time and time again, we have seen oil and gas pipelines fail, causing irreparable harm to lives, property, and the environment. Just last Friday, as was mentioned as well, we saw yet another oil spill in Illinois from a Plains pipeline; the very same company responsible for the spill in my district. These spills remind us that we have a responsibility to do everything we can to prevent spills from happening, but also to be prepared to minimize the damage when they do occur. That is why today's hearing and our work to reauthorize federal pipeline safety programs are so important. As a result of the Plains spill in my district we have already gained valuable insights and identified weaknesses that must be addressed.

I want to thank Chairman Upton and Ranking Member Pallone for working with me to fully investigate this spill, ensure this Administration is following through on its overdue pipeline safety reforms.

Over the years, regardless of who is in the White House, federal pipeline regulations have been weak and ineffective. There is a reason that the company that built the pipeline that ruptured in my district sued in 1998 to have it be regulated by the Federal Government, rather than the County of Santa Barbara. They knew federal regulators would ask fewer questions, impose fewer restrictions. This cannot be allowed to continue.

I recognize progress has been made in recent years. We still have a long way to go. While PHMSA has certainly dragged its feet in implementing key reforms, Congress has also failed to provide the agency with the resources it needs to meet the growing demand.

I often hear many of my colleagues tout efforts to support the rapid growth in domestic oil and gas development and pipeline construction in recent years. While I don't share necessarily their enthusiasm for this development, I hope we can all agree that we must also support efforts to ensure federal regulators have the resources they need to keep pace with this growth. We simply can't have one without the other.

Mr. Chairman, these are just a few of many issues I hope this committee can examine closely as we work to reauthorize pipeline safety programs. These issues have traditionally been very strongly bipartisan. I hope that continues throughout this process.

And I apologize for going way over Mr. Rush's time, and I yield back.

Mr. WHITFIELD. The gentlelady yields.

At this time, recognize the gentleman of the full committee, Mr. Upton, for 5 minutes.

OPENING STATEMENT OF HON. FRED UPTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. UPTON. Thank you, Mr. Chairman.

So today, this subcommittee returns to the very important issue of pipeline safety, and I welcome the Interim Executive Director Stacy Cummings of PHMSA to this hearing, and I look forward to the prompt confirmation of a permanent administrator, as much work needs to be done in the months ahead.

This committee has a long bipartisan history on pipeline safety issues, including passage of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Upton-Dingell. That law held particular significance to me, as it came in the aftermath of a serious oil spill into a tributary of the Kalamazoo River just outside of my district in Michigan. Following the spill, I worked closely with my friend, John Dingell, on a bipartisan basis, as we also worked closely with our friends on the Transportation and Infrastructure Committee to get the Pipeline Safety Act on the books, signed by President Obama. The law contains numerous provisions designed to reduce the likelihood of similar pipeline spills, and minimize the impact of those when they do occur. However, the Pipeline Safety Act will not achieve its primary objectives until it is fully implemented, and I am most disappointed that more than $\frac{1}{3}$ of its requirements remain incomplete long after congressionally mandated deadlines have passed. This includes several of the law's most important mandates, such as automatic and remote-controlled shutoff valves, leak detection, accident and incident notification, excess flow valves, and maximum allowable operating pressure. Some of these provisions, I am convinced, would have made a difference in the recent oil spill in Santa Barbara had they been implemented by PHMSA in a timely manner.

In the last couple of days, PHMSA has announced proposals for two of these overdue mandates, and while these late steps are certainly in the right direction, there is no question something needs to change with the way PHMSA is implementing the Pipeline Safety Act. I intend to ask questions to find out what more Congress can do to speed up the implementation of those requirements.

The urgency for pipeline safety is greater than ever. With record levels of natural gas and liquid hydrocarbons being produced in this country and throughout North America, the volumes traversing pipelines are setting records. And although pipelines are among the safest means of transport, the Santa Barbara spill is a harsh reminder that rigorous risk-based enforcement needs to be a priority.

This committee takes pipeline safety very seriously. That is why we insist that new pipelines be built with state-of-the-art safety features. It is also why we passed the Pipeline Safety Act to improve the safety of the 2½ million miles of existing pipelines throughout the country. This includes many old and potentially vulnerable pipelines, such as one that carries oil beneath the Upper Peninsula and the Lower Peninsula through the Straits of Mackinac in Michigan. I think we can all agree that it is much, much better to be in a position to prevent incidents before they happen rather than to respond after they occur.

In the last hour, the State of Michigan released its own report on pipeline safety, including specific recommendation on the Straits Pipelines, as well as other steps that can be taken to improve safety, including a better relationship between the state and PHMSA. I look forward to studying the report and commend the state for its commitment to pipeline safety.

As we look ahead to continued implementation of the Pipeline Safety and to the law's reauthorization, we will insist on greatly improved performance from PHMSA, and this hearing is certainly an important step towards getting us to where we need to be.

And I will yield the minute if any of my side wants a minute. If not, I will yield back the balance of my time.

[The prepared statement of Mr. Upton follows:]

PREPARED STATEMENT OF HON. FRED UPTON

Today, this subcommittee returns to the very important issue of pipeline safety. I welcome the Interim Executive Director Stacy Cummings of the Pipeline and Hazardous Materials Safety Administration (PHMSA) to this hearing, and I look forward to the prompt confirmation of a permanent Administrator, as much work needs to be done in the months ahead.

This committee has a long, bipartisan history on pipeline safety issues, including passage of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. That law held particular significance to me, as it came in the aftermath of a serious oil spill into a tributary of the Kalamazoo River just outside my district in Michigan. Following the spill, I worked closely with my friend John Dingell on a bipartisan basis—we also worked closely with our friends on the Transportation and Infrastructure Committee to get the Pipeline Safety Act on the books. The law contains numerous provisions designed to reduce the likelihood of similar pipeline spills and minimize the impact of those that do occur.

However, the Pipeline Safety Act will not achieve its primary objectives until it is fully implemented, and I am disappointed that more than one-third of its requirements remain incomplete long after congressionally mandated deadlines have passed. This includes several of the law's most important mandates, such as automatic and remote-controlled shutoff valves, leak detection, accident and incident notification, excess flow valves, and maximum allowable operating pressure. Some of these provisions probably would have made a difference in the recent oil spill in Santa Barbara had they been implemented by PHMSA in a timely manner.

In the last few days, PHMSA has announced proposals for two of these overdue mandates. While these late steps are in the right direction, there is no question something needs to change with the way PHMSA is implementing the Pipeline Safety Act. I intend to ask some tough questions to find out what more Congress can do to speed up the implementation of these requirements.

The urgency for pipeline safety is greater than ever. With record levels of natural gas and liquid hydrocarbons being produced in this country and throughout North America, the volumes traversing pipelines are setting records. And although pipelines are among the safest means of transport, the Santa Barbara spill is a harsh reminder that rigorous risk-based enforcement needs to be a priority.

This committee takes pipeline safety very seriously. That is why we insist that new pipelines be built with state-of-the-art safety features. It is also why we passed the Pipeline Safety Act to improve the safety of the 2.6 million miles of existing pipelines throughout the country. This includes many old and potentially vulnerable pipelines, such as one that carries oil beneath the Straits of Mackinac in northern Michigan. I think we can all agree that it is much, much better to be in a position to prevent incidents before they happen rather than to respond after they occur. Just a few minutes ago the state of Michigan released its own report on pipeline safety, including specific recommendations on the Straits Pipelines as well as other steps that can be taken to improve safety including a better relationship between the state and PHMSA. I look forward to reading the report and commend the state for its commitment to pipeline safety.

As we look ahead to continued implementation of the Pipeline Safety Act and to the law's reauthorization, we will insist on greatly improved performance from PHMSA, and this hearing is an important step towards getting us to where we need to be. Thank you.

Mr. WHITFIELD. The gentleman yields back the balance of his time.

At this time, recognize the gentleman from New Jersey, Mr. Pallone, for an opening statement.

OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PALLONE. Thank you, Mr. Chairman. I appreciate you and Mr. Rush holding this long-overdue oversight hearing on the 2011 Pipeline Safety Act.

The vast network of transition pipelines in this country are considered by most Americans as out of sight and out of mind, but when something goes wrong, the presence of these facilities can make themselves known in the most devastating and sometimes deadly ways. Unfortunately, there are one too many examples of this since 2010, first in San Bruno, California, then in Marshall, Michigan, and most recently in Santa Barbara. There the rupture of a Plains All American pipeline spilled over 100,000 gallons of crude oil onto the coastline. And I am no stranger to the damage that can be caused by pipeline failures. Twenty-one years ago, a pipeline exploded in my district in Edison, New Jersey, destroying around 300 homes, melting cars, and lighting up the sky from New York to Pennsylvania. Unfortunately, that loud and powerful explosion was met with a staggering level of inaction by the Department of Transportation's Office of Pipeline Safety, and its parent organization, the Pipeline and Hazardous Material Safety Administration, or PHMSA.

Two decades and four reauthorizations later, PHMSA has made little progress. The shortfalls of the agency have drawn the attention of industry and safety advocates alike, as well as Democrats and Republicans. I am deeply concerned about PHMSA's inability to carry out its mission, numerous safety recommendations, or congressional mandates. Almost 5 years after the last reauthorization, it is especially troubling how many mandates have yet to be implemented by the agency. Many of the outstanding requirements are

critically important to safety, such as those dealing with operating pressure, leak detection, and automatic or remote-controlled shut-off valves. The lack of inaction on automatic and remote-controlled shut-off valves is particularly galling considering the NTSB recommended expanded use of these damage prevention technologies 20 years ago. I remember that during the whole New Durham explosion, again, in my district in Edison.

Even more troubling is the discovery that OMB is also to blame. Last night, the committee inadvertently received a version of PHMSA's testimony that had been marked up by OMB, and OMB's comments clearly showed concern over being called-out over this outrageous delay, asking whether PHMSA has a "planned response to a question about why this rule has been under EO 12866 review so long. If so, could you provide a summary of that response?"

Perhaps, Mr. Chairman, we need to get OMB up here to explain to the American people and this committee as to why they have held up these proposed rules for so long. Progress must finally be made to help ensure the safety of our pipeline system, and I hope that this hearing leads to that.

I am about to yield, Mr. Chairman, but I just want to say, I was first elected to Congress not long before that explosion in Edison, and we were very fortunate that—I think one person had a heart attack and lost their life because of the explosion, but there wasn't anybody who directly was impacted, although, obviously, that person was who had the heart attack. And for several years after that, we made a number of recommendations including the remote shut-off valves, but I really feel like there is a lot of hoopla when these explosions or tragedies occur, but then not much happens afterwards in terms of preventing them again. So hopefully, we will get something out of this hearing today and the committee's action.

Thank you, Mr. Chairman. I yield back.

Mr. WHITFIELD. The gentleman yields back.

And that concludes the opening statements.

So on our first panel, we have one person, and that is Ms. Stacy Cummings, who is the Interim Executive Director for the Pipeline and Hazardous Materials Safety Administration.

So, Ms. Cummings, if you would come forward, and you will be recognized for 5 minutes for your opening statement, and at the end of that time, we will give members an opportunity to ask you some questions. So thank you very much for being with us, and be sure to get your microphone up close and turn it on. And you are recognized for 5 minutes.

STATEMENT OF STACY CUMMINGS, INTERIM EXECUTIVE DIRECTOR, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

Ms. CUMMINGS. Thank you for that introduction.

Chairman Upton, Ranking Member Pallone, Chairman Whitfield, Ranking Member Rush, members of the subcommittee, thank you for inviting me to testify today on the Pipeline and Hazardous Materials Safety Administration's progress in implementing the Pipeline Safety Act of 2011, and thank you for providing PHMSA with the tools we need to execute our pipeline safety mission.

My name is Stacy Cummings. I am the Interim Executive Director of PHMSA. In May, I traveled to the site of the Plains Pipeline oil spill in Santa Barbara, witnessing for myself its effect on the environment and nearby communities. The spill disrupted businesses, threatened wildlife, and impacted local residents and tourism. This spill was unacceptable, and Americans deserve to be confident that the pipelines in their communities are operating safely.

What I saw in Santa Barbara as well was PHMSA's rapid and comprehensive response to the spill. Immediately following notification, PHMSA personnel were on the scene, where we remain actively involved now. Our inspectors continue to conduct a comprehensive investigation into the cause of this failure, and we continue to support the unified command's spill response efforts, lead by the Coast Guard and EPA. PHMSA quickly issued a corrective action order to Plains Pipeline, and the affected pipeline remains shut down under our authority. We will make sure that the operator identifies the root cause of the failure, and mitigates any additional risks before we allow them to restart that pipeline.

I was very impressed by our PHMSA team in the western region, as well as throughout the country. It is truly an honor to lead a workforce so clearly dedicated to its safety mission. Here in Washington, PHMSA continues to take action to successfully meet the requirements of each mandate in the Pipeline Safety Act. I speak for the entire agency when I say that we share your concern and sense of urgency. We are committed to satisfying every mandate.

The rulemaking process is methodical, inclusive, and transparent. It enables PHMSA to fully consider stakeholder input. In the past month, PHMSA has welcomed new executive leadership, and with the support of the Office of Management and Budget, we have issued two proposed rules and one final rule. Those rules address three mandates from the Pipeline Safety Act, and five NTSB recommendations. We continue to work to advance significant rulemakings on natural gas and hazardous liquid pipelines. These proposed rules are anticipated to be published by the end of this year. But rulemaking is not the only tool that PHMSA uses to improve pipeline safety. As we saw in Santa Barbara, pipeline failures don't wait on the rulemaking process, and neither will PHMSA. We are first and foremost a safety agency. We execute our mission on several fronts with one goal in mind; to drive down the pipeline failure rate to zero. In addition to developing safety regulations, we focus on reducing risk by reaching out to the regulated community to ensure that they both understand and comply with federal safety regulations. We conduct integrated inspections, we hold operators accountable through enforcement, we provide grants to our local and state pipeline safety partners, and we also fund research to develop innovative safety solutions. For these reasons, pipeline failures are low probability events, even as risk factors increase. Unfortunately, when pipeline failures do occur, they can be fatal and costly. At PHMSA, we think that one pipeline failure is one too many.

PHMSA was founded just 10 years ago, and yet so much has changed since then. Our Nation's energy supply and transportation pipeline network continue to grow exponentially. These changes are tremendous opportunities for our Nation, and provide an oppor-

tunity for PHMSA to evolve with the industry we regulate. Whether it is through smarter data or funding research for better detection technology, PHMSA will weigh and act on a range of options for implementing innovative pipeline safety solutions. PHMSA is committed to working with this committee to ensure that we are well positioned to adapt to a modern and evolving infrastructure. Americans deserve to be confident that PHMSA is protecting people and the environment. We take this charge very seriously.

Again, thank you for your support. I look forward to answering your questions.

[The prepared statement of Ms. Cummings follows:]



WRITTEN STATEMENT
OF
STACY CUMMINGS
INTERIM EXECUTIVE DIRECTOR
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON ENERGY AND POWER
WASHINGTON, D.C.

**IMPLEMENTING THE PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB
CREATION ACT OF 2011**

JULY 14, 2015

I. Introduction

Chairman Whitfield, Ranking Member Rush, and members of the Subcommittee, thank you for inviting me to testify today on the Pipeline and Hazardous Materials Safety Administration's (PHMSA) progress in implementing the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pipeline Safety Act).

The Nation's 2.6 million mile pipeline networks are a vital part of our country's infrastructure. These pipelines sustain our everyday life by transporting gasoline to our cars, heating and cooking fuel to our homes, and natural gas to many of our power plants. Our future is underpinned by these energy transportation networks. Pipelines have played a crucial role in our Nation's energy renaissance, which has driven down fuel prices and manufacturing costs, while providing more jobs in the energy sector. As we continue to see historic highs in domestic energy production¹, our Nation's energy infrastructure is shifting to accommodate these changes

¹EIA, "Crude Oil Production, http://www.eia.gov/dnav/pet/pet_crd_crdpn_adc_mbb1_m.htm
And EIA, "Gross Withdrawals and Production [of natural gas]
" http://www.eia.gov/dnav/ng/ng_prod_sum_dc_u_nus_m.htm

and the increased demand associated with it. New pipelines are being constructed, and other pipelines are being converted to carry different products. Our vast energy reserves confer an enormous potential for growth, but it is imperative that our transportation infrastructure remains safe, reliable, and efficient in order to support this growth.

Our agency's top priority is safety, and PHMSA is dedicated to reducing the risks associated with transporting hazardous materials. We are taking a comprehensive approach to keep pace with increasing energy production and the challenges associated with increasing and changing infrastructure. While we hold operators accountable through regulation and strong enforcement – these measures only set minimum expectations for compliance. PHMSA goes beyond regulations and enforcement by providing programs and resources that increase safety. These measures include providing grants to the States with pipeline safety programs, emergency response training, technological innovation through research and development (R&D), public engagement with our community assistance and technical services program, and promoting smart land use development in proximity to pipelines, just to name a few. We are committed to using all of the tools at our disposal to achieve our shared goal of zero pipeline spills or releases.

II. Our Results: PHMSA is Making Significant Progress

Serious pipeline incidents have declined an average of 10 percent every three years since 1988, despite increased energy production, aging infrastructure, and increased pipeline mileage. However, we continue to face many challenges, and unfortunately pipeline accidents still occur. In May, I travelled to Santa Barbara, California, where a 10.6 mile crude oil pipeline ruptured. I saw firsthand the effect that pipeline failures have on communities and the environment and also saw our rapid and comprehensive response. Immediately following notification of this accident, PHMSA personnel were on the scene, where we remain actively involved. Our inspectors are conducting a comprehensive investigation into the cause of this failure, and we continue to support the Unified Command's spill response efforts led by the U.S. Coast Guard and the Environmental Protection Agency.

PHMSA issued a Corrective Action Order (CAO), and the affected pipeline remains shut down under PHMSA's authority. We will ensure the operator identifies the root cause of the

failure and mitigates any additional risks associated before they will be allowed to restart the pipeline. The CAO is an important enforcement tool that enables us to respond quickly to emergency conditions that pose a hazard to the public or the environment. We are continuing our investigation into the cause of this failure. If we determine that the operator has violated any of our Federal regulations, we will pursue additional enforcement action.

When the Bridger Pipeline spill occurred in Montana earlier this year, PHMSA also responded quickly and comprehensively. PHMSA deployed a team of highly skilled investigators to the scene to ensure that the operator took immediate steps to prevent any further release and to identify the root cause of the pipeline failure. Although the circumstances surrounding these two failures are different, PHMSA's response demonstrates that we are focused on safety. It is imperative that we fully understand the root cause of pipeline failures to ensure that operators take the necessary steps to prevent future accidents. In addition, PHMSA shares lessons learned with other pipeline operators through safety advisories and updated or new rulemakings so that they can take preventative actions.

Pipeline safety is a shared-responsibility. It is incumbent upon operators to build, maintain, and operate their pipeline systems in the safest possible manner. Operators know and understand the operating environment of their systems and are required by regulation to apply the right risk control practices to ensure performance and safety.

PHMSA implements a comprehensive oversight program that involves ongoing inspections, strong enforcement, and the issuance and maintenance of pipeline safety policies and regulations. We also take proactive steps to incorporate lessons learned from accidents into new policies and regulations in order to prevent future occurrences.

III. Congressional Support is Imperative

Responding to a pipeline incident requires the coordination and cooperation of many stakeholders. Achieving our safety goals for the Nation's 2.6 million miles requires a similarly multi-faceted approach. I thank the Congress for its support in increasing our appropriations for this year. The fiscal year 2015 Omnibus included a \$34.5 million increase over fiscal year 2014 for PHMSA, which significantly strengthens our ability to carry out our mission and provide safe, clean, and reliable transportation energy products. This would not be possible without your support.

PHMSA estimates that we can fund 109 new positions – a near doubling in the pipeline safety workforce – with the FY 2015 enacted appropriations. PHMSA employees are passionate about our mission, and their continued hard work is critical to our success. The inspectors and engineers who respond to incidents, and the people who work every day to promote our message, manage our programs, and help us oversee a massive infrastructure system are an integral part of our vision for the future. I'd like to thank all of our employees for their efforts, and I am looking forward to welcoming all our future hires onto such a committed team.

The vast majority – approximately 80 percent – of the new positions are designated for field positions. Most of these hires will conduct safety inspections and accident investigations. We are allocating these regional positions based on a variety of risk factors, including new construction projects, identified safety challenges and current accident investigations. We are aggressively hiring these inspectors and maintaining a rigorous training schedule. We understand that there is a great need for these roles.

The remaining 20 percent of the positions will support regulation development, state program management, inspector training and qualification, enforcement, and external engagement.

While Congress has continued to support additional hiring, it is important that PHMSA also receive funding to allow that implementation in a strategic manner. PHMSA has consistently requested additional funding to support enhancing our risk management, analytical frameworks and mapping capabilities. Through PHMSA grants, state pipeline safety programs are funded up to 80 percent, but PHMSA has limited insight into state data on where interstate pipelines actually exist, their conditions, and the inspection reports performed by our state partners. We would like to work with Congress to further explain our risk reduction proposals. Boots on the ground are helpful to oversee a growing infrastructure, meet our emerging challenges, and maintain strong enforcement and regulation during this critical period in America's energy development. However, we need to strategically place those boots.

IV. Sustained Efforts to Satisfy Mandates

Since its establishment a little over 10 years ago, PHMSA has been fortunate to receive continued support from Congress for its pipeline safety program through the attainment of a considerable amount of resources, such as the ones previously mentioned. At the same time

Congress has imposed a number of mandates on PHMSA that are critical to our success. Completing these mandates is one of PHMSA's highest priorities, as it allows us the opportunity to strengthen weaknesses in our regulatory and enforcement responsibilities, and implement other necessary programmatic improvements to enhance pipeline safety nationwide.

The Pipeline Safety Act of 2011 included 42 new requirements. PHMSA continues to tackle these requirements through a comprehensive approach and has made considerable progress by completing 26 of the Act's mandates. While we are pleased to report that we have completed more than half of the mandates, we understand that there is still much more work to be done in protecting people and the environment from pipeline hazards and fulfilling the intent of the Pipeline Safety Act. Recent actions to comply with the Act include:

- In June, PHMSA published proposed rules on incident notification requirements for natural gas and hazardous liquid pipeline operators, cost recovery for design reviews, and the expansion of excess flow valve requirements.
- Earlier this year, we completed the mandate in Section 21 a-b to report to Congress on the regulations for gathering lines, including exemptions and the possible application of existing regulations to unregulated lines. We addressed the mandate in Section 32 by submitting the first of two reports to Congress on the status and results-to-date of our R&D program.
- We also addressed the mandate in Section 19 by offering a maintenance of effort waiver to States for fiscal year 2014.
- We implemented continuing improvements to the facility response program to complete the mandate in Section 6 to maintain operators' most recent oil facility response plans and provide a copy to any requester, excluding sensitive information.

To track our progress in implementing each section, please visit the PHMSA website at <http://phmsa.dot.gov>.

Of the remaining mandates and non-mandated actions, more than 10 will be addressed as part of current rulemaking activities while others are tied to reports that are currently under internal review, or future rulemakings or information collections currently under consideration. PHMSA has also taken numerous other actions using its bully pulpit by conducting public workshops, issuing advisory bulletins, and funding R&D.

PHMSA currently has eight rulemakings in progress, 5 of which will help address open mandates related to the Pipeline Safety Act. Consistent with federal requirements, this year, we issued two final rules – including one which establishes criteria for determining the adequacy of State pipeline excavation damage prevention enforcement programs, and a Federal adjudication process for proceedings against excavators in states with inadequate enforcement programs – addressing two open NTSB recommendations². We expect to issue many of our significant rules, including our Notices of Proposed Rulemaking (NPRMs) for gas transmission and hazardous liquid pipelines by the end of the year³. These rulemakings are important priorities for the Department and address several important mandates. We are working as hard and as quickly as possible to address all of stakeholder input we are receiving, publish the needed rules, and satisfy the remaining mandates.

We must implement these mandates nationwide, and some of them are a heavy lift. For the mandates that involve the development of new regulatory requirements, our rulemaking process engages the public to identify concerns and potential solutions, through public meetings, workshops, and the public comment process. Our significant rules undergo interagency review at OMB in accordance with Executive Orders 12866 and 13563. It can take a long time to promulgate rules, but our rulemaking process is careful and methodical. Each step exists to make sure that the rules we publish are effective, efficient, and reflect feedback from all stakeholders and stand up to scrutiny.

We fully acknowledge Our Nation's energy supply and transportation pipeline network are rapidly changing and expanding, posing new opportunities for better oversight. Whether it's through smarter data, more inspectors or funding research for better detection technology, PHMSA is committed to weighing and acting on a range of options for implementing innovative pipeline safety solutions. We are committed to quadrupling our efforts so that Americans can be confident that PHMSA is protecting people and the environment. As we look ahead to the next reauthorization, we are look forward to working with the Committee to ensure that PHMSA is well-poised to adapt to a modern and evolving infrastructure.

² Pipeline Safety: Miscellaneous Changes to Pipeline Safety Regulations, and Pipeline Safety: Periodic Updates of Regulatory References to Technical Standards and Miscellaneous Amendments

³ DOT Significant Rulemaking Report, June 2015

V. Continuing Commitment to Improving Safety

The rulemaking process is not the only tool we have to improve pipeline safety. Strong regulations go hand in hand with strong inspection and enforcement programs. PHMSA and the pipeline safety program are undergoing significant growth and change. Our inspection and investigation workforce is at the heart of our pipeline safety program and is charged with overseeing the growing demands of old and new infrastructure. We are doing everything in our power to expeditiously hire and train and develop an estimated 109 full time positions in FY 2015.

We are also committed to using our full enforcement authority. Our enforcement actions go beyond assessing fines and play a critical role in improving a pipeline safety. For example, CAOs, like the one we issued in response to the Santa Barbara spill, allow our agency to require an operator to determine the cause of a failure and the condition of the pipeline involved, and mandate the mitigation of all factors that contributed to the release. This provides a level of assurance (or confidence) that another release will not happen in the pipeline system.

Enforcement actions like CAOs lead to significant safety improvements to the pipeline and represent significant financial costs to operators, beyond the cost of any fines PHMSA could impose for a violation of our regulations. For example, following the Marshall, Michigan spill, PHMSA fined Enbridge \$3.7 million, but the company has separately reported that it spent an additional \$2.5 billion in complying with PHMSA's CAO. Following ExxonMobil's Laurel, Montana incident, PHMSA assessed a \$1 million civil penalty, but ExxonMobil reported an additional \$34 million expenditure in complying with PHMSA's CAO. These CAOs improve the safety of a failed pipeline or system and send a strong signal to industry that failures will not be tolerated.

With the additional resources that we have received, we are rethinking the way we do business – including the workforce skillsets for conducting inspections and investigations. For example, we are adding an auditing function to our workforce skill set to work in tandem with our engineers, who provide the technical expertise, and our transportation specialists, who add the field verification element. Broadening the skillset and making this a team effort will be used to enhance our field presence for more robust inspection and enforcement oversight to ensure compliance with Federal safety requirements covering the transportation of the Nation's energy

products. We are also creating a division focused on pipeline accident investigation. This group will broadly share lessons learned with all stakeholders to help improve safety.

We are in the third year of fully implementing a new inspection protocol for “Integrated Inspections,” where inspections are tailored to the risk profile of a pipeline operator. Our new inspection protocols can be customized to focus resources on risks but are flexible enough to reflect new knowledge gained during an inspection. Inspections now cover multiple facilities and more miles of pipeline; they are performed by a team of engineers and can take several months to complete. As a result, our inspection results are more comprehensive, and may result in fewer, but more expansive, enforcement cases.

We continue to make adjustments to our risk-informed integrated inspection approach and our requirement that integrity management programs ensure operators are adequately identifying and addressing the greatest risks. Under integrity management, operators are required to conduct integrity assessments of gas transmission and hazardous liquid pipeline systems in high consequence areas and apply lessons learned across their entire system. Driven by the lessons learned from the first dozen years of integrity management, failure investigation recommendations, and mandates, we have initiated and are actively considering a variety of improvements to our integrity management regulations and other parts of our oversight process.

We are also working to strengthen State pipeline safety programs and improve oversight nationwide. The States are responsible for inspecting and overseeing approximately 80 percent of the existing infrastructure, and the States employ approximately 63 percent of the inspector workforce. PHMSA trains these State inspectors alongside our Federal inspectors, so it is vitally important that we have a consistent national inspection program and cutting edge training that is aligned with PHMSA’s goals and initiatives.

All inspectors, whether State or Federal, must be familiar with our regulations and technical standards. To that end, our training and qualifications (T&Q) office provides training and technical assistance to both PHMSA and State inspectors. Last year, T&Q students completed over 1,300 courses, 5,400 seminars, and 1,800 computer-based training modules.

Getting new inspectors up to speed is important because, as we’ve seen a significant increase in new gas and liquid pipeline constructions projects, PHMSA has strived to dedicate about 25 percent of its inspection resources each year to construction inspections. From 2006 through 2013, construction of gas and hazardous liquid transmission pipelines increased from

approximately 3,000 - 4,000 miles per year to 3,500-7,500 miles per year. Our priority is to identify and correct issues before failures occur, so it is critical that new pipelines are designed and built correctly, prior to being put into service. During these projects, our inspectors examine all processes, including welding, bending, field coating, testing, and other activities to ensure that the construction is in accordance with our Federal safety regulations. Since 2007, our inspectors have identified and acted on hundreds of construction issues, which operators were required to remediate before the pipeline could be put into service. We have followed up our field observations from inspections with safety advisory bulletins, public workshops, and industry meetings focused on quality control practices. We know that our new inspectors will be key as we strive to keep pace with the growing pipeline infrastructure while maintaining high standards of safety.

Strong pipeline infrastructure policy also requires collaboration between stakeholder groups. PHMSA has many partnerships and outreach programs that educate stakeholders and prevent issues from occurring.

One area where our outreach efforts really make a difference is excavation damage prevention. Last year, 28.3 percent of all distribution incidents were caused by excavation damage⁴. These incidents caused over \$25 million in damages, one fatality, and 15 injuries. The most troubling part of these statistics is that almost all of the incidents could have been prevented with a call to 811, our national Call-Before-You-Dig hotline, which prevents damages to pipelines 99 percent of the time.⁵

We are working hard to raise 811 awareness. Since its inception, PHMSA has continuously supported the efforts of the Common Ground Alliance (CGA), and we also implement 811 outreach activities that align with CGA's recommended approaches such as major league baseball campaigns, radio and web messaging, and outreach to children across the country through a national poster contest.

Additionally, we are also working with States to reduce the unnecessary exemptions to one-call laws. The Pipeline Safety Act directed us to study the impact of exemptions, and we submitted a report to Congress last year. One of the key findings was that States with five or more exemptions had over 100 percent more incidents than States with fewer exemptions. Many

⁴ <https://hip.phmsa.dot.gov/analyticsSOAP/saw.dll?Portalpages>

⁵ Common Ground Alliance (CGA) Damage Information Reporting Tool annual report

States are already working to improve and strengthen their damage prevention laws, and PHMSA is working with these states to identify gaps, coordinate with stakeholders, track legislative efforts, and build effective enforcement into their state one-call programs. We believe that damage prevention can have clear results through outreach and strong State partnerships.

As our Nation's pipeline infrastructure grows with the energy industry, our country's population is also growing. More people are now living closer to transmission pipelines than ever before, increasing the risks to larger populations. PHMSA convened and led the Pipelines and Informed Planning Alliance (PIPA) which created recommended practices to help growing communities plan land use and development near existing transmission pipelines.

This January, PHMSA released a primer, in coordination with the Federal Emergency Management Agency (FEMA) that provides guidance for incorporating pipeline hazards into community hazard mitigation plans. We encourage communities to use this primer to make pipeline safety an integral part of many communities' planning efforts—from zoning ordinances to risk-based land use and development decision making.

PHMSA's Strategic Plan seeks to reduce the consequences of failures when they occur. With that in mind, we are also working to improve emergency responder training and outreach. We work with numerous emergency response groups, including the North American Fire Training Directors and the International Association of Fire Chiefs, to improve pipeline emergency response training by advocating for institutionalizing pipeline training on a local and State level and working to create sustainable training programs.

We are also committed to investing in our workforce, technology, and infrastructure. Since 2002, PHMSA has coordinated with the industry to collaborate on more than 230 projects and to invest approximately \$89.9 million of PHMSA funding, plus \$84.81 million worth of resource sharing with various stakeholders. This collaboration has resulted in 25 patented technologies that operators can use to improve pipeline safety.

In 2013, PHMSA launched the Competitive Academic Agreement Program (CAAP), which supports university-level pipeline safety research. The CAAP initiative goes beyond seeking practical solutions; it also introduces young researchers and engineers to consider employment in the field of pipeline safety. To date, the program has awarded over \$1.5 million in multi-year research projects and involves 80 students. Projects from this past year have explored improved pipeline coatings, patches and repairs for through-wall defects, and

monitoring early stages of corrosion. This summer, PHMSA will be expanding the program and awarding up to \$2 million in additional research. We are confident that the CAAP initiative will not only result in new and innovative technological solutions, but also future PHMSA safety initiatives.

Finally, we are working with State pipeline regulatory agencies and pipeline operators to continue to invest in our infrastructure. In 2011, the Department issued a Call to Action to encourage accelerated repair, rehabilitation, and replacement of high risk pipeline infrastructure. Since then, 38 states and the District of Columbia have implemented measures for accelerated infrastructure cost recovery and replacement of aging pipe. Sixteen states have completely eliminated cast or wrought iron in their natural gas distribution systems. While this work isn't finished, this is great progress.

VI. Closing

As you can see, PHMSA is heavily involved in efforts and activities to fulfill all of the important mandates that Congress included in the Pipeline Safety Act. PHMSA will continue to work with Congress to prepare for and remain a step ahead of the Nation's forever changing energy landscape and infrastructure needs.

I'd like to thank you again for inviting me to testify and for your continued support of PHMSA's mission; the new positions that we are now filling will help ensure PHMSA's oversight of our Nation's growing pipeline system. Our pipeline system is vast, but it is vital to our way of life and economic security. To that end, we are committed to a strong oversight program that facilitates the growth and maintenance of an efficient, safe and environmentally friendly pipeline transportation network for energy products.

Safety remains our top priority and we look forward to working with Congress in addressing pipeline safety issues and strengthening PHMSA's pipeline safety program. Everyone at PHMSA is dedicated and committed to fulfilling the remaining mandates and accomplishing our pipeline safety mission, and I am honored to work with them in enhancing the safety of the American public.

Thank you again for the opportunity today to report on our progress. I would be pleased to answer any questions you may have.

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Ranking Member Rush

Line 620—Question from Ranking Member Rush: Do you have any idea about the percentage of the Nation's pipelines that go through the State of Illinois?

A. There are 2,485,471 miles of pipeline in the State of Illinois, including gas distribution, regulated gas gathering, gas transmission, and hazardous liquid transmission lines. This represents about 5 percent of the Nation's pipelines mileage.

Chairman Upton

Line 724--Question from Chairman Upton: In the current IM program for inspecting oil and gas pipelines, is there a priority for increased inspections or shut-off valves on pipelines that are over 30 years old? The ones that were made more than 30 years ago or are more than a mile under water? I look at the difference between—in the Straits of Mackinac, it is more than a mile. I look at the Chesapeake Bay—I am not sure if pipelines are there or not. I look at pipelines that are going out in the ocean. Are there any regulations that are pending or that you are reviewing that would look at existing pipelines of a somewhat older nature, in certain environmentally sensitive areas, and if not, should we be looking at those here as we look to reauthorize the bill?

A. Under PHMSA's current integrity management (IM) program, pipeline operators are required to analyze and assess all threats to their systems, implement measures to minimize those threats, and remediate pipeline integrity concerns before they result in an incident. In many cases, age itself isn't necessarily a good indicator for how risky a pipeline is to the public. However, there are certain age-related risks, including manufacturing or welding defects that are now-inadequate standards, that operators are already required to account for when performing risk analyses and prioritizing pipeline integrity assessments.

The current IM program also requires operators take additional measures to prevent pipeline failures and mitigate the consequences of pipeline failures in high consequence areas such as the Straits of Mackinac. Operators must conduct a risk analysis to identify additional measures to enhance public safety and protect the environment. Such additional measures can include automatic shut-off or remote-control valve installation, computerized leak detection and monitoring system installation, thicker wall pipe installation, and robust emergency response training.

PHMSA's upcoming "Safety of Hazardous Liquid Pipelines" and "Safety of Gas Transmission Pipelines" notices of proposed rulemaking (NPRM) do not contain any additional provisions that specifically address age as a risk factor. However, these NPRMs do propose several improvements to the IM regulations so that operators must identify threats and assess risk more accurately, which will continue to strengthen the oversight of pipelines in populated and environmentally sensitive areas.

PHMSA is also addressing IM program improvements through non-regulatory means. For example, PHMSA completed a research project in March 2015 titled "Repair/Replacement Considerations for Pre-Regulation Pipe" ("pre-regulation pipe" refers to pipelines installed before 1970). This project will provide a standardized method for pipeline operators to decide which of their pre-regulation pipelines can be maintained safely and which of them should be replaced because of un-repairable technical shortcomings. PHMSA will tailor these guidelines for natural gas transmission and distribution pipelines as well as hazardous liquid pipelines.

PHMSA is hosting a Risk Modelling Workshop on September 9-10, 2015, to promote more rigorous risk modelling within the pipeline industry and related fields, ways to advance pipeline risk models, and practical ways that operators can adopt and adapt risk models to the analyses of their systems.

Cong. McNerney

Line 764--Question from Cong. McNerney: About the algorithm that is used in prioritizing our inspections—wanted to know if it is publicly available?

A. Details about the Risk Ranking Index Model (RRIM) have not been publicized. This algorithm assigns a risk score by analyzing inputs such as enforcement history; the materiel composition of the pipe, such as type of steel, seam type, product in transportation; and the proximity of the pipeline to people and the environment. The RRIM is a factor used to prioritize inspections, which also considers regional leadership knowledge of the operator's level of compliance and safety programs. PHMSA has developed and continues to improve the algorithm to rank gas transmission, gas gathering, hazardous liquid, and carbon dioxide pipeline systems based on risk score and "time since last inspection." The RRIM uses both PHMSA internal data and operator-submitted data most of which is already publically available.

Line 789—Question from Cong. McNerney: How is PHMSA doing with regard to controlling fugitive gas emissions and safety of pipelines that are serving fracking production?

A. PHMSA's top priority is keeping energy products, including methane, in the pipe. PHMSA is closely following methane emission reduction policy development by the White House, Congress, and industry trade organizations. PHMSA is meeting with the Environmental Protection Agency (EPA) to coordinate regulatory and research activities, such as PHMSA's participation at EPA Gas Star Program events. Additionally, PHMSA held multiple meetings with environmental interests, and added representation to PHMSA's congressionally mandated Pipeline Advisory Committees, which review PHMSA's proposed regulatory initiatives to assure the technical feasibility, reasonableness, cost-effectiveness and practicability of each proposal.

Line 830—Questions from Cong. McNerney: The use of Corrective Action Orders and whether we have issued one before an accident occurred?

A. PHMSA uses Corrective Action Orders when it identifies safety concerns requiring remediation. In the case of an imminent hazard to the public, environment, or property, PHMSA can issue a Corrective Action Order, without a hearing, to require the company to immediately implement safety actions, such as temporarily restricting or discontinuing the use of a pipeline or pipeline facility. Corrective Action Orders almost always include both short term and long term actions that the company must implement within a designated timeframe. Such actions might include internal inspection of a pipeline system, independent metallurgical review of a pipe or third party audit of the company's emergency response program.

PHMSA has issued Corrective Action Orders before an accident occurred. For example, in 2002 PHMSA issued a Corrective Action Order to a pipeline operator as a result of safety related conditions between two pump stations. PHMSA also issues Safety Orders to address safety concerns that do not rise to the level of imminent hazard to the public, environment, or property.

Mr. WHITFIELD. Ms. Cummings, thank you very much. And I am going to defer my questions, but I am going to recognize at this time, Mr. Olson, of Texas, for 5 minutes.

Mr. OLSON. I thank the chair. And welcome, Director Cummings. It is always great to have someone who served our Navy, as the daughter of a career naval officer.

Ms. CUMMINGS. Thank you.

Mr. OLSON. My home State of Texas is no stranger to pipelines. According to EIA, we have nearly 60,000 miles of gas pipelines. Oil lines cover the state as well. They are vital to our economy, to the Nation's economy, as they carry the products that keep America moving.

It is not just oil and gas in pipelines. Water pipelines can blow out as well. We saw that last year when Sunset Boulevard became Sunset River. A 93-year-old pipeline blew out, sending 20 billion gallons of water all over the campus of UCLA. We know that pipelines are the safest way to move oil and gas, but just like airplanes, when the worst happens, it can be tragic. People can be killed. Eight people lost their lives in San Bruno. Eight people in their homes. And that is why we should always keep moving forward with pipeline safety.

It seems clear that PHMSA was never going to make our deadlines that we imposed with the most recent Pipeline Safety bill. And when PHMSA has a long list of new rules to write, do you try to triage them and focus on the ones that are more important to keeping people safe? How are you working through that list?

Ms. CUMMINGS. Thank you for that question, Congressman. Yes, we had 42 mandates in the 2011 Pipeline Safety Act, of which we have completed 26. We are working on every single one of those 42 mandates, and in the case of the mandates that are going to be addressed through rulemakings, we haven't been waiting on the rule-making process to get information out to our stakeholders, to the industry, and to the public. We have sanctioned studies, and we have issued reports to Congress. We have held public meetings and workshops. We have issued advance notices of proposed rulemaking to help us gather stakeholder data, and in some cases we have proposed rules that we have issued, like the two that we were able to issue in the last month. Those are all very important ways that we get information out to the stakeholders and to industry as we continue to work to fulfill the remainder of the 42 mandates, again, many of them with formal rules that we are in process working on.

Mr. OLSON. So 42; 26 down, 16 to go—

Ms. CUMMINGS. Right.

Mr. OLSON [continuing]. If my math is right. Keep working hard on that.

Ms. CUMMINGS. We will.

Mr. OLSON. My second question, I hope to ask this to the second panel as well—if I call the city hall in the village of Pleak back home in Texas, and ask Mayor Bittner or Fire Chief Gania has PHMSA reached out to you about pipeline safety, what do you think they will say? Put it another way, how much have you done outreach to the first responders and leaders at local communities?

Ms. CUMMINGS. I hope that what he will say is, yes, absolutely, PHMSA has reached out. We reach out to our stakeholders in

many ways. I mentioned a couple of them being public meetings and workshops. We partner with the first responder community to make sure that they have access to training. We also have several grants. About $\frac{1}{3}$ of our budget goes to grants. And some of those grants are technical assistance grants where the mayor or the first responder community can actually apply for a grant with PHMSA to get technical assistance to provide training, to do outreach to the public, to invest in equipment that is going to help them respond to a pipeline accident if it were to occur. So there are many opportunities for stakeholders such as your mayor and the first responder community to interact with PHMSA, and for us to help them be prepared.

Mr. OLSON. I will check with them and confirm those.

Ms. CUMMINGS. Thank you.

Mr. OLSON. Great, thanks for that answer. Final question, you have always kept the focus on risk-based standards over the years, and that is appropriate, but how does this risk-based standards agenda move forward, evolve with these new rulemakings?

Ms. CUMMINGS. One of the most important changes to the pipeline safety program over the last 10 to 15 years has been our implementation of integrity management. Integrity management is a risk-based approach where we require the operator to identify, assess, and mitigate risks associated with their specific pipeline. The operator is in the best position to understand the uniqueness of the location, the condition of their pipeline, as well as what is moving through their pipeline. And so our program for integrity management is our risk-based approach, and we are going to continue to improve it, enhance it, and expand it through the rulemakings that you are going to be seen proposed over the next year.

Mr. OLSON. Thank you.

I am out of time. Yield back.

Mr. WHITFIELD. At this time, recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. RUSH. Ms. Cummings, I really want to thank you so much for being here today with us, and I know your job is not an easy one and you are the Interim Executive Director, and I enjoyed our recent discussions.

And I would like to—before I begin, if you can give me an update on the pipeline meeting that happened on Friday near Highland, Illinois. Is the spill contained? And I have heard that the oil has reached a tributary of Silver Lake concerning the water supply for the citizens of Highland, and I would like to know if the water supply is safe, has it been affected, and give me an update if you will on the clean-up efforts that PHMSA is conducting there or overseeing there near Highland, Illinois.

Ms. CUMMINGS. Happy to, and thank you for the question.

Mr. RUSH. Yes.

Ms. CUMMINGS. On Friday in Pocahontas, Illinois, a pipeline fitting at a pump station blew out, discharging about 100 barrels of crude onto the ground. The spill did migrate down a ditch into a creek, as you mentioned, and it did threaten the water source. It was heading in the direction of a reservoir that held a water source for Highland, Illinois. We were notified of the spill through the National Response Center, which is the appropriate way to be noti-

fied. We immediately sent a PHMSA investigator to be on the scene, and that investigator was on the scene by 4:00 p.m. that very day. An incident command center was set up. The State of Illinois had the lead on that. And what they did was they managed the response, they immediately went in to stop the flow of oil, and they were able to stop the flow of oil before it got to the point where it threatened the water source. So as was confirmed to me yesterday through an update from our team, the water source was—oil did not get into the water source—into that reservoir.

The clean-up effort did work. They used booms, and then for the past several days, they have been using different methods to recover the oil. And they are in the process of continuing to do that.

I can get you a very, very specific update in writing for the record if you would like, but I would like to point out that this was Plains Pipeline, which is the same operator from the Santa Barbara spill.

Today, we are issuing a corrective action order to Plains specifically related to this spill in Illinois, and I sent a letter yesterday to the CEO of Plains Pipeline, and he and his team are going to be here in D.C. at PHMSA, and we are going to talk to them on Friday about their safety record, safety culture, and what they are doing to address these two issues, but also the safety of their entire system.

Mr. RUSH. In your opinion, do most mayors, county executives, local leaders even know what pipelines are in their jurisdiction and what those pipelines are carrying, and if they wanted to obtain this information, can they get it from PHMSA?

Ms. CUMMINGS. Yes. We have an online tool called the National Pipeline Mapping System, NPMS. That tool in its entirety is limited in access, but what we do is we have individual access for people based on the information that they need to know. So a local executive, a local emergency responder, or a state-level emergency responder or executive would have the ability to apply for a password—

Mr. RUSH. Yes.

Ms. CUMMINGS [continuing]. And they would have role-based access to the information that they need to identify what pipelines are in their area. And if anybody needs any help accessing that or getting access, we would be happy to provide that assistance.

Mr. RUSH. Most citizens of my state would really be surprised to know the number of pipelines, an enormous amount of pipelines that are located in the State of Illinois. Do you have any idea about the percentage of the Nation's pipelines that go through the State of Illinois?

Ms. CUMMINGS. I think you asked the percentage of the 2.6 million?

Mr. RUSH. Yes.

Ms. CUMMINGS. No, I can't tell you the exact percentage. I can absolutely get you that for the record, but I agree with you, there are many pipelines in the State of Illinois that we regulate as well as that are regulated by the state.

Mr. RUSH. I was told, Mr. Chairman, that in one part of my district, Will County, $\frac{1}{8}$ of the state's entire pipelines go through—and this is a small quadrant of my district in the State of Illinois.

I want to thank you again, Ms. Cummings. And I yield back, Mr. Chairman.

Mr. WHITFIELD. At this time, recognize the chairman of the full committee, Mr. Upton, for 5 minutes.

Mr. UPTON. Again, appreciate the hearing. And as I indicated in my statement, there are a number of us that are not happy with the failure to really implement a number of the issues that were signed into law a number of years ago. Literally about $\frac{1}{3}$ as we calculate, $\frac{1}{3}$ of some of those regulations.

So I guess I have a question. As we look to reauthorizing this bill, which, as you know, expires the end of September, should we be providing more direction to PHMSA to prioritize the outstanding mandates, or should we allow PHMSA to finalize the regs required by the 2011 law before determining what changes need to be made? What is your suggested course?

Ms. CUMMINGS. We do have significant progress that we have made on the mandates, over and above the ones that we have completed, and we do appreciate your patience in completing those mandates. Every single one of them is critical and important for pipeline safety. Each one of those mandates are as important to PHMSA as they are to you, and we have a plan moving forward to complete them.

We do think that during the reauthorization process, we would like to sit down with the committee staff, we would like to sit down with you, talk about specific ways that we can use reauthorization to help us expand pipeline safety, improve pipeline safety, but we do recognize that we have a lot of work to do and we are very, very focused on it, and we have a plan to complete every one of these mandates.

Mr. UPTON. So one of the easiest ones, in my book, to implement was the change that we did that a company had to report formally, on a timely basis——

Ms. CUMMINGS. Yes.

Mr. UPTON [continuing]. And we changed that to say it had to be within an hour.

Ms. CUMMINGS. Yes.

Mr. UPTON. We look at the Santa Barbara spill a couple of weeks ago, and that spill, as I understand it from talking to Lois Capps, what went on for many, many hours. I mean how is it not easy to say it has to be done within 1 hour, and it doesn't happen, here we are 4 years later. That was one of the big issues that we had in the Kalamazoo River spill in Calhoun County back in 2010. They did know that it was going on but they didn't report it until even perhaps a couple of days later. One billion dollars in clean-up.

Ms. CUMMINGS. PHMSA agrees that timely notification is absolutely critical because the sooner we begin response in the rare and unfortunate circumstance of a pipeline rupture. Earlier this month, we issued a proposed rule that will require operators to notify as soon as practicable, but not more than 1 hour after they have detected a release, to the National Response Center. So we are proud to have gotten that proposed rule issued. It was issued earlier this month.

Mr. UPTON. But why did it take so long? That was the intent, that was what we discussed. It was in black and white——

Ms. CUMMINGS. Yes.

Mr. UPTON [continuing]. And 4 years—

Ms. CUMMINGS. I—

Mr. UPTON [continuing]. Is OMB that slow? Do I need to go back to Sylvia Burwell, when she was there, to—

Ms. CUMMINGS. I understand—and I sense your frustration that it has taken us this long to have the proposed rule out, but I would like to point out that we have issued multiple safety advisories, and we have shared with the industry how critical it is for timely notification.

As we execute the investigation into the incident at Santa Barbara, and also in Illinois, we are absolutely going to be looking at timelines and notification as part of our corrective action order, and we do expect operators to be notifying the NRC as soon as possible so that they can begin that clean-up.

Mr. UPTON. OK, let me ask one last question in my remaining minute. In the current Integrity Management Program for inspecting for oil and gas pipelines, is there a priority for increased inspections or shut-off valves on pipelines that are over 30 years old? So not new ones—

Ms. CUMMINGS. Yes.

Mr. UPTON [continuing]. But the ones that were made more than 30 years ago, or more than a mile under water. So I look at the difference between—in the Straits of Mackinac, it is more than a mile. I look at the Chesapeake Bay, I am not sure if there are pipelines there or not. I look at pipelines that are going out in the ocean. Are there any regulations that are pending or that you are reviewing that would look at existing pipelines of somewhat older nature—

Ms. CUMMINGS. Yes.

Mr. UPTON [continuing]. In certainly environmentally sensitive areas, and if not, should we be looking at those here as we look to reauthorize the bill?

Ms. CUMMINGS. I am going to ask if I can respond to you on the record on that specific question on whether or not that is in the regs now or the regs that we are planning.

Mr. UPTON. Do you think that is a good idea that we do that?

Ms. CUMMINGS. I think that a risk-based approach looks at probability and consequence, and that we should be looking at everything that impacts the probability of a pipeline failure as well as the consequence. So proximity to water as well as age impact both likelihood and consequence. Those sound like intriguing ideas, but I would definitely like to talk to the technical experts before providing you with a specific—

Mr. UPTON. I look forward to your response.

Ms. CUMMINGS. Thank you so much.

Mr. UPTON. Thank you. I yield back.

Mr. WHITFIELD. At this time, the chair recognizes the gentleman from California, Mr. McNerney, for 5 minutes.

Mr. MCNERNEY. Thank you, Mr. Chairman. And thank you, Ms. Cummings, for testifying this morning.

I would like to know a little bit about how you prioritize your inspections. Is there a way for you to determine what pipelines are most at risk? Could you explain that a little please?

Ms. CUMMINGS. Yes, absolutely. Thank you. We prioritize our inspections using a risk model driven by data, and so we have about 26 different elements that look at the condition of the pipe, the age of the pipe, what is being moved in the pipe, as well as past performance, and what information we have learned through the inspections that we have already provided. And we use that information and put it into an algorithm, and that algorithm gives us basically advice on which companies, which operators, we should be inspecting. We then have our regional directors who are experts and who really know the system, use that information as input to create their annual plan to make sure that we are visiting those pipeline operators that are at higher risk more frequently—

Mr. MCNERNEY. OK.

Ms. CUMMINGS [continuing]. And to make sure that we are—

Mr. MCNERNEY. So how much transparency does that algorithm have? Is that something that is publicly available?

Ms. CUMMINGS. I am not sure that it is publicly available, but I would be happy to schedule a briefing with you or your staff to go over that algorithm and how we use it.

Mr. MCNERNEY. OK, that might be a good idea.

Ms. CUMMINGS. Sure.

Mr. MCNERNEY. Is PHMSA moving forward with regulations on automatic shut-down valves and remote-control valves?

Ms. CUMMINGS. We are. In 2012, we provided a report to this committee. It helped us to inform our thinking on automatic shut-off valves, remote-controlled shut-off valves, and other safety technology, to the technical feasibility of it, the operational feasibility, as well as economic. So we are working on several rules right now. One of them looking at specifically leak detection in valves. The others looking at how we can improve integrity management, which does include the operator evaluating the usefulness and the safety benefit of valves. So we are working on that, and we hope to get those proposed rules issued—

Mr. MCNERNEY. OK, thank you.

Ms. CUMMINGS [continuing]. As soon as possible.

Mr. MCNERNEY. How is PHMSA doing with regard to controlling fugitive gas emissions and safety of pipelines that are serving fracking production?

Ms. CUMMINGS. Can I get back to you on the record on that question?

Mr. MCNERNEY. I suppose you can. In fact, yes, I would say—

Ms. CUMMINGS. Thank you.

Mr. MCNERNEY [continuing]. You should.

Ms. CUMMINGS. Thank you.

Mr. MCNERNEY. Does PHMSA have the resources to complete rulemaking on a timely basis?

Ms. CUMMINGS. We are so grateful that in 2015, Congress provided us with the resources we need to hire 109 new people for the pipeline program. While 80 percent of those positions are going to be resources in the field to support inspections and enforcement, 20 percent of them are going to be at headquarters, and those positions are specifically going to help support our regulatory agenda, economic analysis, training, certification, and support of our state partners.

Mr. MCNERNEY. So, now, you said you hired 100-and-some people, are those mostly technical people, or are they management?

Ms. CUMMINGS. Yes. A great proportion of them are technical, yes. So in the field, the 80 percent of the 109; engineers, auditors, inspectors, and enforcement tech.

Mr. MCNERNEY. What are the requirements for PHMSA issuing a corrective action order?

Ms. CUMMINGS. The requirement for a corrective action order is imminent hazard, and that is part of our statutory authority. So the time when you will most likely see us issue a corrective action order is going to be after a pipeline failure, such as the one in Santa Barbara or the one in Illinois.

Mr. MCNERNEY. But you can and have issued those before failures?

Ms. CUMMINGS. We can if we have evidence of an imminent hazard, but more likely it is going to be issued after. And—

Mr. MCNERNEY. So you don't have any historical examples of issuing one before an accident?

Ms. CUMMINGS. I don't have any examples for you right now. I will ask my technical team and get back to you on the record if we have an example of that.

Mr. MCNERNEY. Well, OK. In the remaining 40 seconds, please explain a little bit about the rulemaking process.

Ms. CUMMINGS. Yes, sure. Before we are ready to issue a rule, and we are putting together the information, we are generally going to do public workshops, we are going to do studies, and sometimes we are going to issue an advanced notice of proposed rulemaking, which is more of a wide open request to stakeholders to provide us information to inform the rulemaking process. We are going to take all that information, we are going to put it together into a rule that has the safety requirements, safety benefits, and also the economic benefits. So what is the cost versus the safety benefit of the regulation? We issue that proposed regulation to the Federal Register. Again, we get stakeholder input. We put that stakeholder input together, and we have two advisory committees that we consult with at—when we are moving towards the final rule stage. We use them to advise us on the benefit of the rule, the safety requirements that we have put together, as well as the operational ability to implement, and then the economics, the cost of it. Once we issue a final—

Mr. MCNERNEY. I am going to have to yield back, Mr.—

Ms. CUMMINGS. OK. Thank you.

Mr. MCNERNEY. I have run out of time. Thank you, Mr. Chairman.

Mr. WHITFIELD. She was giving great detail.

At this time, I recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. SHIMKUS. Thank you, Mr. Chairman. And welcome, Ms. Cummings.

Ms. CUMMINGS. Thank you.

Mr. SHIMKUS. The spill in Illinois is located in my district. I talked with the city manager actually, yesterday morning. I think one of the interesting things was Keystone goes through that area also, and Keystone had provided them with a response trailer in

which they were able to deploy with their firefighters to ensure the protection of the water supply, which is called Silver Lake. And so I would concur with what you concluded, that there is no threat to their drinking water. And their response was as per you would expect when you have pipelines. We do have a lot of pipelines. We have the Patoka Terminal. So these things happen, and they are regretful, but we—the issue is responding. I think those of us who were here when we passed the last piece of legislation were hoping that—we know we are not going to be perfect, but we want, obviously, to have a better process in place to be able to ensure that we can identify these before the accident occurs. Hence, all these lines of questions.

The first issue that I would like—you have answered some of them in your testimony, but could any of the Pipeline Safety Act mandates have made a difference, do you know, in the recent pipeline breaks, whether that is in California or the one recently in Illinois?

Ms. CUMMINGS. Because those two investigations are still going on, I don't think I can presuppose what the cause was, but we will absolutely be looking through our investigation at the condition of the pipe, we will be looking at their inline inspection results, we will be looking at what happened in the control room, how quick were they to respond, did they follow their emergency response plans, as well as the placement and how quick they closed valves and pumping stations. So I would be happy to, once the investigation is complete, do an analysis of the results compared to the rulemakings and the mandates that we currently have—

Mr. SHIMKUS. Yes, that would be helpful. I can't speak for California, but I know Plains put up a Web site to give the public access, whoever knew about it, to go to the Web site to get a current update on their response, and I think that has been very helpful.

I was going to ask about where—but you answered this already too, that you—there will be a correction action order probably conducted.

Ms. CUMMINGS. Yes.

Mr. SHIMKUS. Can you talk through some of the criteria that may be involved in that and maybe some of the benchmarks, because now what we want to do is make sure there is some certainty—

Ms. CUMMINGS. Yes.

Mr. SHIMKUS [continuing]. Obviously, from the local community that it is ready to go and up and running?

Ms. CUMMINGS. Absolutely. The corrective action order is being issued today by our regional director to Plains. And so I can tell you in general what is going to be in it. They were still working on it, the specifics, as I was coming over to this hearing. But we are going to be looking at what was the cause. We are going to be looking at—because it was a pipe fitting, to look and see where else in the network those pipe fittings are so that we can make sure that this event won't happen somewhere else on the pipeline network. We are going to be looking at their emergency response notification, when did they notify, what was the timing, when did they know. And we will be looking for them to use third party analysis similar to what we have required from Plains in Santa Barbara,

and provide those results to us so that we can perform our investigation.

Mr. SHIMKUS. And lastly, we understand that you are having difficulty collecting data from states and localities about drinking water supplies and other ecological information. How can we help, or what can we do to help get the states to provide the information you need to do based upon past legislation and your intent on analysis?

Ms. CUMMINGS. Right. Yes, through our National Pipeline Mapping System, in trying to complete the mandates, and also just create a good system that we can use but also that is transparent, we have had some issues getting access to the right data especially in a cost-effective manner. We would love help in figuring out the best way to get that data. We are looking at information collections right now, but I would love to take you up on your offer, and maybe through our reauthorization discussion or just individually, if we can come up with some ways to make that path cleaner, that would be great.

Mr. SHIMKUS. Well, and that is why we have these hearings too, to find out ways we can work together and be helpful. So I am sure the committee is taking notes, and we can follow up with that.

Thank you, Mr. Chairman. I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time, recognize the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. PALLONE. Ms. Cummings, in the 2002 reauthorization, Congress added language to Section 60112 of the law to make it easier for the Secretary to take corrective action against a pipeline that poses a threat to life, property, or the environment, and because the department doesn't issue licenses to pipeline operators, this authority is perhaps the closest tool the Secretary has to suspending or revoking a license. I know that PHMSA used this authority to address threats posed to Santa Barbara by two of the lines operated by Plains All American, but I am concerned that perhaps the hurdle for using this authority is still too high, and that the Secretary isn't able to take advantage of it as often as may be needed to protect the public and our environment.

So my question is, do you need more flexibility or different, more useable tools to quickly address the threat of unsafe facilities?

Ms. CUMMINGS. The imminent hazard requirement is what we would use in order to issue a corrective action order in order to shut down a pipeline. We do have a lot of tools in our toolbox, but I think—I would very much like to have the opportunity to talk in more detail about that specifically, and whether or not there was a way for us to use that emergency in advance of an accident. That is something we would like to talk about in the future. But we are not afraid to use corrective actions when we need to—corrective action orders, and we have a lot of other tools in our toolbox that we continue to use for strong enforcement.

Mr. PALLONE. All right. And Congress will need to reauthorize the Pipeline Safety Act soon, and yet, as a number of us noted in our opening statements, PHMSA has yet to complete some of the most critical rulemakings mandated by the 2011 Act, including work surrounding leak detection, a very important matter in light

of the recent incident in Santa Barbara. Not only does the Pipeline Safety Trust flag this inability to complete its rulemakings as a problem, but industry also views this as a matter that is hurting safety, as evidenced in Mr. Santa's testimony. My understanding is that these rulemakings have been held up in review at OMB due to open cost benefit analysis questions. So if you could answer my question. What are these open benefit cost analysis questions referred to in the comment?

Ms. CUMMINGS. Well, we work with our interagency partners, OMB being one of those partners, to ensure that we are speaking with one voice on policy matters. We value the input of OMB. Whenever we go through the process of working a rule through OMB, it always ends up being a better product. Some of the things that they would ask us questions about through the rulemaking process are going to be what are the assumptions that we used in order to generate the cost versus the benefit. They are going to be looking at the data that we used to justify the benefit that we have calculated. And we always get good information from OMB, and we reply as quickly as we possibly can, as do they, we work together to come up with the best possible rule. It is very important to us that when we do issue a rule, we get it right.

Mr. PALLONE. But how can these questions remain open for so long, and how have you tried to resolve them, and maybe most importantly, how can we help you? I mean perhaps it is not your agency's fault, these rules have yet to see the light of day, but you need to tell us what is going on and how we can help you get the job done.

Ms. CUMMINGS. I appreciate that offer for support from this committee. We believe that we have a very good relationship with OMB, and as I said, we believe we get very valuable information back through the process. In my experience, we have been working very closely with OMB and they have been very cooperative in helping us move our rules forward, but again, we want to make sure we get the rules right, and the very methodical, open, and transparent process enables us to do that with stakeholder input.

Mr. PALLONE. Is there any way that we can help you though because, you know, they have remained open for so long, and I know you say you are trying to resolve them, but how are we going to resolve it and how can we help you?

Ms. CUMMINGS. I think having oversight hearings like this are a great way to do that. It brings visibility to PHMSA as an agency and also to the mandates of the Pipeline Safety Act. And I think that we have a great plan moving forward, and that you are going to see some proposed rules out of us, as you have in the last month. I think you are going to see them for the rest of the year.

Mr. PALLONE. OK, thank you.

Ms. CUMMINGS. Yes.

Mr. WHITFIELD. At this time, recognize the gentleman from Pennsylvania, Mr. Pitts, for 5 minutes.

Mr. PITTS. Thank you, Mr. Chairman.

Madam Director, the notices of proposed rulemaking announced in the last 2 weeks on accident notification and excess flow valves show some incremental progress to address safety, however, there are many significant rules still pending.

My question is, when can we expect these rules to be published, and will PHMSA commit to sharing a timeline or schedule for completion?

Ms. CUMMINGS. Yes, we have several rules that we are actively involved in the rulemaking process. We have a Web site that the Department of Transportation keeps up-to-date, and that Web site will provide the schedule of where the rule is and when we anticipate proposing it or issuing it. In addition, we at PHMSA have a Web site that we keep up-to-date on every mandate, all of the 42 mandates, as well as other activities in the Pipeline Safety Act. We keep that up-to-date as well. And so at any time, if you wanted information about our progress on the mandates, or where we are in the rulemaking process, that is very transparent and it is available on our Web site. But we would be happy to come and provide you with a detailed brief of each of our rules, what we are looking at for the rules, and the schedule.

Mr. PITTS. Thank you. Last year, Congress increased PHMSA's fiscal year 2015 budget by 23 percent, and PHMSA has committed to hiring over 100 new personnel to conduct inspections and handle enforcement cases. What progress has PHMSA made to hire and train new personnel, and, you know, what can Congress do to help expedite the process?

Ms. CUMMINGS. Yes, we are so grateful that in the 2015 fiscal year, we have enough funding to hire 122 new positions, with 109 of them being in the pipeline program. I mentioned earlier that 80 percent of those are going to be in the field. We are in the process of onboarding people that have accepted positions, we are at 46 percent fill rate. We have a very robust strategy to bring the remainder of those positions onboard. We are doing things like holding veterans fairs, we are doing recruitment, we have looked at our requirements to make sure that we are reaching the breadth of the folks out there who would be interested in coming to work for PHMSA. We have even requested direct hire authority, which we haven't received, but that would be very helpful in targeting those engineering skill sets that we are looking for at PHMSA. And as far as training, we have a very robust training program. We are going to train those new employees in a bit of a boot camp scenario so that they are being trained together, and so that they become valuable parts of our inspection team as soon as possible.

Mr. PITTS. Thank you. Section 4 of the Pipeline Safety Act required PHMSA to issue regulations if appropriate requiring the use of automatic or remote-controlled shut-off valves in new or entirely replaced transmission pipelines. This regulation could improve the ability of pipeline operators to quickly stop the flow of crude oil or natural gas in the event of an accidental release. Operator delay in shutting down pipeline flow has been identified as the exacerbating factor in a number of recent pipeline failures, most probably in the September 2010 natural gas pipeline in San Bruno, California, when it took an hour and a half to manually close the valve. In 2010 and '11, PHMSA issued notices of proposed rulemaking for both gas and liquid pipelines, and both announcements made clear that some changed the requirements for automatic or remote-controlled valves was being considered. PHMSA studied the issue, it

has reported to Congress, so why, years later, hasn't PHMSA finalized their regulation?

Ms. CUMMINGS. We have issued studies, reports to Congress, and advanced notice of proposed rulemaking. The rules that I spoke to you about, that we have a plan moving forward and we are working to propose, do address things like integrity management, increasing the breadth of our regulations, as well as automatic and remote-controlled shut-off valves, leak detection, and other safety technologies that are available in the market but we will propose in those rules very soon.

Mr. PITTS. Is PHMSA reviewing the need to propose changes to existing exceptions from federal regulation for gathering lines, and if so, when will this review conclude?

Ms. CUMMINGS. We are. We are looking at that as well as looking at how that might inform the rulemaking process. I can get back to you on exactly when we are going to be releasing that information, but we are working on it and we have a plan to release it.

Mr. PITTS. Thank you, Mr. Chairman. My time has expired.

Mr. WHITFIELD. The chair now recognizes the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair. And, Director Cummings, thank you for joining us. I have to state, I don't envy your position today, having to appear before this committee and defend the agency and, frankly, its weak, as I would see it, record of achievement. That is not a reflection on you, but of the failure of the Administration and Congress to support this agency and the vital safety mission that PHMSA serves.

Mr. Weimer, in his testimony, said there is plenty of blame to be shared for the slowness in implementing pipeline safety initiatives. I agree. Placing blame doesn't solve any problems. Aggressive, faster action is what we need. That requires additional sustained resources for your agency, our job here in Congress, and it requires PHMSA, DOT, and the Administration truly to put safety first.

We have been installing and conveying petroleum, petroleum products, and natural gas for pipelines for more than 60 years, and I simply do not believe we have to continue to tolerate the number of accidents that occur as a basic cost of doing business.

Section 8 of the 2011 Pipeline Safety Act directed the agency to study leak detection systems used by hazardous liquid pipeline operators, and to issue regulations to require leak detection on these pipelines and/or to set leak detection standards. The fact that Congress needed to put this into law in 2011 is disappointing. It seems to be a basic safety requirement that should have been in place some time ago, and I believe PHMSA completed that required study at the end of 2012, as you indicated. That is correct, right?

Ms. CUMMINGS. That is correct, 2012.

Mr. TONKO. So when are we going to see a proposed rule, a final rule?

Ms. CUMMINGS. The status of the rulemakings that I spoke of earlier are notice of proposed rulemakings. We at PHMSA, the current team, the executive team, as well as the career staff, are focused and are completely committed to getting those proposed rules complete, getting them issued, and then quickly turning around,

looking at stakeholder feedback, and turning them into rules. We are absolutely committed to that, and we have a plan to do it.

Mr. TONKO. Well, we are going to watch closely. Apparently, damage to pipelines by excavation continues to be one of the main causes of significant pipeline incidents. As I stated earlier, we have been building and using pipelines for a very long time. How detailed and accurate are the maps of the existing pipeline network?

Ms. CUMMINGS. I spoke earlier about the National Pipeline Mapping Program that we have, and as you point out, the availability of data there is as good as the data that comes into it. It is complete from a federal perspective of our oversight, but there is more information that we would like to collect. Data is one area that I think we have room to improve, and I think we have room to work together to improve. Being able to have complete access and visibility and transparency across the country, and also to be able to evaluate through our data, our data systems and analytics, those are all very important and things that we are looking to do in the future, and it would be great to work with this committee to figure out ways to use data more effectively.

Mr. TONKO. Yes. Thank you. Most decisions about zoning and development are made at the local level. Is there a way to better engage our local officials? Do mayors and planning boards have appropriate access, great access to information that impacts their communities?

Ms. CUMMINGS. Yes. That is a great question. Part of our Stakeholder Outreach Program at PHMSA looks at all sorts of things, ways that we can get information out, public workshops, local open houses, as well as the grant programs that we have, specifically around things like excavation damage. We also look at ways that we can provide information to localities about planning and development as people start to move closer to pipelines that have been there for a very long time, and we do a lot of outreach related to that, as well as support to local planning. Our state partners are critical in our National Pipeline Safety Program, and so any way that way improve that collaboration, improve that relationship, we want to do that, and we are definitely open to ideas for how we could do that better.

Mr. TONKO. And I thank you.

It seems as though I am almost out of time here. I would just encourage us to move along with the final plans that will be presented, the proposals that you have talked of, and to be able to go forward and address safety to the max.

And with that, thank you, Mr. Chair, I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time, recognize the gentleman from Ohio, Mr. Latta, for 5 minutes.

Mr. LATTI. Well, thank you, Mr. Chairman. And thanks very much to our witnesses for being with us today. Appreciate your testimony today.

And I was interested in your testimony where you cited that we have about 2.6 million miles of pipeline right now in the Nation, and that—also that the mileage is going up every year from the past where we were doing, it looks like you said, between 3 to 4,000 miles, and now to about 3,500 or 7,500 miles—

Ms. CUMMINGS. Yes.

Mr. LATTA [continuing]. Per year. And I know that we have had the Secretary of Energy in and he talked about the energy boom, of course, that is occurring in this country on the natural gas and on the oil side, which makes it essential that we have the pipelines out there to move the energy that we have. And, of course, like across Ohio and across my district there are new pipelines being proposed, and I was wondering if you could—again, from your testimony, you state that you would like to work again more with Congress to explain those risk reduction proposals. So if you, again, could give more information to us on that, what those proposals might be on those reductions.

Ms. CUMMINGS. Sure. You did mention new construction and growth of the network. We do intend to spend about 25 percent of our inspection time supporting and looking at new construction pipelines. The best time to ensure that a pipeline is safe is during construction, and before it actually goes into operation. And so the regulations that we have overseeing new construction as well as our inspection and enforcement are critical to long-term pipeline safety.

From a risk perspective, some of the things that we are working on in terms of integrity management are to improve the actual integrity management process, but also to expand it into areas where integrity management isn't in place right now. Integrity management puts the onus on the operator to identify risk and—they use risk models in order to do that so that they can prioritize their investment in safety in their pipelines.

One of the things we are doing in September is we are going to hold a workshop, and we are going to look at risk modeling across multiple industries, and we are going to see how we, PHMSA, can take that information and then share it back out with the industry so they can improve their risk models, because the best way to implement integrity management is to properly identify, properly assess risk, that way they can mitigate it. And our goal is to prevent a failure before it happens. And that is what risk management enables us to do in the Pipeline Safety Program.

Mr. LATTA. Well, thank you. And I know it has come up a little bit before in regards to the whole question about the Call Before You Dig—

Ms. CUMMINGS. Yes.

Mr. LATTA [continuing]. And I know that around the areas you have the signs up that—I know that companies have about the—call the 811 number. And also I see in your testimony that 28.3 percent of all distribution incidents were caused by the excavation damage, and that cost \$25 million in damages, one fatality, and 15 injuries. And you state that you are working hard to raise the 811 awareness, but could you give more detail about what you are doing to raise that with the local communities again because, again, for a lot of us, we came from local governments at one point in our lives, and I was a county commissioner, and we had the planning commission that we all served on, but what are you doing to really get that information out, because I know that you talked about the mapping—

Ms. CUMMINGS. Yes.

Mr. LATTA [continuing]. And trying to find that information out, not only what Mr. Shimkus had brought up about in regards to water, but others about existing pipelines, but what are we doing to try to get that, for that 811 information for people to know that, you know, because a lot of times when people think about Call Before You Dig, they are thinking, well, before I go out in my backyard and I am going to dig a new hole for a tree, that I don't want to hit some kind of a, you know, an electric line. But now we are talking about those transmission lines out there with excavation.

Ms. CUMMINGS. Yes. One of the most frequent causes of pipeline failure is excavation damage. And we have our 811 Program which we oversee in conjunction with Common Ground Alliance, a not-for-profit group that works on 811. We do have a grant program associated with excavation damage, as well as Call Before You Dig. We have been doing a lot of outreach. You might have seen the Triple Crown winner was wearing an 811 hat this year. You will see that we are having an 811 day at National Stadium. We are trying to use media as well as our local relationships with the local Common Ground Alliance folks to get the word out to use 811 and Call Before You Dig. It has been proven through a study that if you use 811, it is over 99 percent effective. So what we need is for people to be making the call, because we know that if you make the call, that it is going to be effective.

Mr. LATTA. Well, thank you very much.

And, Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time, I recognize the gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman.

Ms. Cummings, I don't think it is a secret that I am a big supporter of pipelines. I represent a district in north Houston and east Houston where I have never not lived on pipeline easements in my life, so I have a pretty good understanding about the utility of pipelines. It is the safest way to move a product. And I guess that is why I am disappointed that we haven't dealt with the requirements from the previous reauthorization to now, and since I live there and work there, I think that we need quicker response. In the 4 years since we reauthorized pipeline safety last time, and due to the rapid expansion of oil and gas production, the U.S. will need to build thousands more miles of new pipelines, including gathering and transmission lines. Additionally, our power generation sector increasingly relies on natural gas as we need more distribution lines as well. But we need to make sure these pipelines continue to be the safest mode for that transportation, compared to rail and truck. We must also address the replacement of the pipelines. Our infrastructure continues to age. And PHMSA recently discussed a plan called hazardous liquids integrity verification process. What has the reception been to that plan from the stakeholders?

Ms. CUMMINGS. The hazardous liquid proposed rule is one of the rules that I have been talking about. We did issue an advanced notice of proposed rulemaking. We did get stakeholder input, and we have used that to put back into the rulemaking process. We hope to be issuing a proposed rule on that within the year, and we are

working hard on that. Stakeholder input was an important part of that process. If you would like, I can put together a briefing that specifically identifies all the stakeholder input that we have gotten, but I think that—and I know you have another panel that will have industry reps, I think that industry is as anxious as we are at PHMSA to have regulatory certainty, and I think that the plan that we have moving forward will enable that regulatory certainty. And so we appreciate your support in giving us the time to complete that plan and getting that information——

Mr. GREEN. Well, we may take you up on that. If it is not with the committee, we have a Natural Gas Caucus here——

Ms. CUMMINGS. Yes.

Mr. GREEN [continuing]. That we may ask you to——

Ms. CUMMINGS. OK.

Mr. GREEN [continuing]. Come over.

Ms. CUMMINGS. OK.

Mr. GREEN. When discussing pipeline replacement, is the cost recovery a major issue?

Ms. CUMMINGS. Yes, absolutely. We issued in 2011 a Call to Action, and a majority of the states have responded to that, but as you point out, replacement of old pipes has a cost to it, and a lot of our stakeholders are municipalities and they have to do that through—figuring out ways to recapture the cost. So that is an issue that those stakeholders are working.

Mr. GREEN. What agencies are primarily responsible for setting these policies? I know it could be state and federal, or both.

Ms. CUMMINGS. Yes.

Mr. GREEN. Is that true on the policies for pipeline replacement?

Ms. CUMMINGS. I am not sure I understand your question. Sorry.

Mr. GREEN. OK. I assume if they are interstate pipeline——

Ms. CUMMINGS. Yes.

Mr. GREEN [continuing]. It is federal, but in some cases it is also a state authority, and I know in Texas, still a misnomer, our Railroad Commission is actually our pipeline agency.

Ms. CUMMINGS. Yes.

Mr. GREEN. But how do you work with other states who may have an interest in it.

Ms. CUMMINGS. Right. Sorry about that. Of the 2.6 million miles, while we issue regulations and are responsible for pipeline safety across the country, we rely on our state partners to oversee and regulate 80 percent of those pipelines, and so we have a strong relationship with the states. We provide them training and certification. We also provide them grant funding. We evaluate them on a regular basis to make sure that they have the skills and tools that they need, and we also have a mentor program that we use to improve state performance when it comes to the oversight, the regulation of pipelines.

Mr. GREEN. OK. Mr. Chairman, I am almost out of time, but I have questions that I would like to submit on PHMSA's leak detection integrity management rules guidelines, and also the coordination for it. I would be glad to submit those questions. Thank you.

Ms. CUMMINGS. Thank you.

Mr. WHITFIELD. Thank you.

At this time, recognize the gentleman from West Virginia, Mr. McKinley, 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman.

This issue is particularly important to us in West Virginia as we are trying to transport the Marcellus and the Utica gas throughout the state, and finish the network of piping, but it seems a few months don't go by without another leak, another explosion, another fire. We just had one last week again. It just seems to be one after another, and I don't know how we are going to stem the loss of confidence of the American public that we are doing all that we should be doing to do this, because it is as though someone is willing to let these things happen because then people turn on fossil fuels, whether that is oil or gas. So I am hoping it is not part of a plan here to slow the implementation.

How would you grade the fact—I was a little startled when 17 of the 42 standards have not been met. How would you grade the performance of the agency? Would you give yourself an A for what you have done?

Ms. CUMMINGS. Out of the 42 mandates, we have completed—

Mr. MCKINLEY. How would you grade yourself?

Ms. CUMMINGS [continuing]. Twenty six, but we—

Mr. MCKINLEY. How you grade your—are you doing an A grade, a B, how would you grade yourself?

Ms. CUMMINGS. I have been very, very impressed with the staff that I have met at PHMSA, and when it comes to commitment to safety and desire—

Mr. MCKINLEY. How would you grade yourself—

Ms. CUMMINGS [continuing]. To get these rules done—

Mr. MCKINLEY [continuing]. You have—

Ms. CUMMINGS [continuing]. I would definitely give us—

Mr. MCKINLEY [continuing]. Evaded twice already the question that was asked of you—

Ms. CUMMINGS. Yes.

Mr. MCKINLEY [continuing]. On both sides of the aisle. What is the schedule—

Ms. CUMMINGS. Yes.

Mr. MCKINLEY [continuing]. And you avoided it, very effectively I might add. But now—I am going to ask that same question, but right now first, how would you grade your performance? Do you think it is a passing grade, is it a C, a B, how would you grade—did you do what you were asked to do?

Ms. CUMMINGS. We are—

Mr. MCKINLEY. Yes or no, did—A or B?

Ms. CUMMINGS. We have not completed all of the mandates that you have asked us to complete, but we are absolutely making progress on every single one of them—

Mr. MCKINLEY. I hear—

Ms. CUMMINGS [continuing]. And—

Mr. MCKINLEY [continuing]. So you are not—you are going to play that game with me too, I guess. So the other two questions were when is the schedule? Are you going to finish at the end of this year, is it going to be spring of next year, when? Don't tell me to go find it myself on a Web site. I am asking you, when will you be finished?

Ms. CUMMINGS. I can tell you that we have a plan, and I can tell you that we are working with our stakeholders to go through the methodical rulemaking process, and that every single person at PHMSA is absolutely committed to getting that plan done.

Mr. MCKINLEY. I am sure you said that back in—2 years—you or your agency said over the last 3 years, but this has been since 2011, and I am sure the low-hanging fruit was already picked to make that happen, but we have 17 more that probably are contentious. When will they be finished, when will they be approved? You blamed OMB. I wish OMB were here—whether or not they would accept that responsibility, but you threw them under the bus. So I am just trying—what do we have to do to—I want to restore the trust of the American public that enough is enough, and I am not getting confidence at all from you. It is very evasive on this. So how would you do it? If you are not going to answer the question, you are going to tell me go find it yourself. Is that correct? Go find it myself?

Ms. CUMMINGS. What I wanted to express when I was telling you about the Web site was that we are being as transparent as possible by posting that information on the Web site. The status of every single individual rule, where it has been and where it is going, and how long it has been there, is absolutely available. It is a very transparent process. We have a plan moving forward. As I said, we have two rules that I think are close to being complete within this calendar year, and we have some other rules that we are working very hard on at PHMSA to get complete, and to have our economic analysis complete so that we can move to issuing those proposed rules.

Mr. MCKINLEY. So are you suggesting that by the end of next year you may have all 42 mandates complete?

Ms. CUMMINGS. I know that the rulemaking process that we are currently going through is going to address 11 of the mandates, and that we have reports that are currently being finalized that are going to address four of the mandates. And so yes, we are making progress on absolutely every single one of them. I simply can't look into the future and see what stakeholder input we may get, what new technology might be developed, or what new requirements might come up to change our priorities to say exactly when all 42 will be done, but I can tell you that every single person at PHMSA is—

Mr. MCKINLEY. Well, I hope—

Ms. CUMMINGS [continuing]. Committed at getting—

Mr. MCKINLEY [continuing]. Your priorities—

Ms. CUMMINGS [continuing]. To getting them done.

Mr. MCKINLEY. I hope your priorities are reestablishing the confidence of the American public, that we are doing everything we can to give them pipeline safety.

Ms. CUMMINGS. And that is what we want as well.

Mr. MCKINLEY. I yield back my time.

Ms. CUMMINGS. Thank you, Congressman.

Mr. WHITFIELD. At this time, recognize the gentlelady from California, Mrs. Capps, for 5 minutes.

Mrs. CAPPS. Thank you, Ms. Cummings, for your testimony. My questions today, because there are still so many unanswered ones

about the causes of and responses to the May 19 Plains oil spill in my district, will have to do with that particular incident.

I know the investigation, not the rulemaking necessarily, but the investigation takes time. It is important to get the facts right, but it has been 2 months since the spill occurred on the pristine coastline, Gaviota Coast, my district. When will this investigation be completed and the results shared with the public?

Ms. CUMMINGS. Thank you, Congresswoman Capps. And before I answer, I would just like to thank you for your support of the agency, as well as the time you have spent with our PHMSA employees and talking to them out in Santa Barbara. They appreciated it, and I hope you found, as I have, how dedicated to safety those PHMSA staff are, and that they take this oil spill personally, just like you do.

The investigation will take time. There are many aspects that will require third party evaluation, as well as research into different parts of the organization about what happened. Some of the things that we are specifically focused on is that third party evaluation of the condition of the pipe. I think the last I heard, that is going to take a couple of months to get the report from the third party evaluator.

Mrs. CAPPS. OK.

Ms. CUMMINGS. The third party evaluation of the inline inspection, that is going to take a couple of months.

Mrs. CAPPS. All right.

Ms. CUMMINGS. A corrective action order can actually be in place for several months, and—

Mrs. CAPPS. OK.

Ms. CUMMINGS [continuing]. It is not until—go ahead.

Mrs. CAPPS. I don't want to cut you off, but I do want—

Ms. CUMMINGS. Yes.

Mrs. CAPPS [continuing]. To ask some other questions as well, and so I now have a timeframe. And thank you. Please keep this—my office and my constituents—that is a good way to do it, and this committee updated as to how things progress.

I must say the information we have so far is very troubling. Makes us question the condition of—now I understand it is millions of miles of pipeline running through our country. As you know, Plains did an inline inspection of line 901, May 5, and this is just 2 weeks before that very line ruptured. This inspection showed 45 percent metal loss at the rupture site, yet now we are now shocked to discover that the actual level of corrosion was over 80 percent when the ruptured pipe was evacuated. I have seen it myself.

Ms. Cummings, were you surprised by the disparity, and is this a common occurrence?

Ms. CUMMINGS. The inline inspection tool provides a great deal of data, and that data has to be analyzed by experts in order to determine what the data is telling them. They also go out and actually do digs and look at those anomalies to compare them to the data to make sure that they are getting the right information. I think that the results of an inline inspection need to be looked at from an expert on the data and an expert on pipelines—

Mrs. CAPPS. OK. I am cutting you off again, but—

Ms. CUMMINGS. Sorry.

Mrs. CAPPS [continuing]. You are making it sound so obtuse. It is a disparity.

Ms. CUMMINGS. It is a disparity.

Mrs. CAPPS. And it is disturbing, and it is not the only time it happened. Plains has reported that the inline inspection also overestimated the amount of corrosion at other points along the pipeline. We would rather have an overestimate than—of a corrosion than underestimate, but these inline inspections are clearly not very accurate. Whether the issue is with the technology, system operators, or both, there is clearly a problem here. So what is PHMSA doing to improve the accuracy? I mean either over or under—

Ms. CUMMINGS. Yes.

Mrs. CAPPS [continuing]. What can we do to improve the accuracy of the inline inspections in general?

Ms. CUMMINGS. To your point of the investigation, that will be part of our investigation, but looking at inline inspection and other assessment tools across the board, our research and development budget in our program is a partnership with industry where we identify those areas where we can use our funds to invest in future safety technologies, and one of the technologies we invest in a lot is inline inspection and other assessments. And so your support of our research and development program is actually the best way for us to be able to improve that assessment data, and get closer to reality, and to be able to mitigate risk.

Mrs. CAPPS. Thank you. In addition, and I hope I can get my third question out here, in addition to corrosion on line 901, dozens of corrosion problems have been found on an adjacent line 903, a longer and wider segment of pipe connected to the ruptured line 901. These numerous problems have been outlined in your corrective action order, and I have your submission of those to us here, and want to submit them for the record here. Plains has even acknowledged the problem by accelerating the frequency of its inline inspections after its 2012 inspection found 41 anomalies serious enough to require excavation. Yet, despite the pattern of corrosion and failure to accurately measure the level of corrosion on the rupture site, PHMSA is still allowing Plains to operate 903 line to reduce pressure. Why is PHMSA allowing line 903 to operate when it has the very same corrosion disparities and problems as the pipeline that ruptured? What assurances can you provide that line 903 won't have the same problems that line 901?

Ms. CUMMINGS. As you pointed out in our corrective action order, we did notice similarities between 901 and 903, and so we took that imminent hazard and we applied it to line 903, and we have put additional requirements on Plains. Line 901 is empty. Line 903 does have oil in it. They are not operating it in regular course of action. About 100 miles away from the coast, just a portion of 903 is intermittently being operated, but the rest of 903 remains shut down. And they will only be able to operate under our authority if we allow them under the corrective action order.

Mr. WHITFIELD. Gentlady's time has expired.

At this time, I would like to recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. Thank you very much. Appreciate you being here.

Mr. McKinley touched on it. Others have touched on it. Mrs. Capps, in her questions, although she didn't say it directly. One of the big concerns here is that we passed a law 4 years ago in an attempt to make the pipelines safer. We are still trying to get those regulations implemented. They are not ready yet. And there is a confidence, or a lack of confidence, from the public.

Now, I am going to take just a second and go to a different subject. I promise you it is relevant. The EPA's Clean Power Plan, the final rules are not out yet, some 13 to 16 months after that rule comes out, the states have to come up with their plan, and by 2020 they have to start implementing that plan. As a result, in part of that pressure being placed on electric generation companies, 2 major pipelines, see, I told you I would bring it around, 2 major pipelines have been proposed coming through my region of the state. I represent a big chunk of one of them, and the other one affects constituents of mine, even if it doesn't actually come through my district. Their concern, in many ways, is about safety. And I have been communicating this morning with one of those constituents. Her farm is going to be affected by the Atlantic Coast Pipeline. And there are real concerns there, and part of the concern, and the lack of confidence, is the states and individuals are having to deal with the consequences of these EPA regulations faster than you can get the regulations for safety that we passed 4 years ago implemented. What do I say to them when they say to me, in rural areas, the shut-offs are only 20 miles apart. Twenty miles apart. That is a long way on a rural road if you have to get from point A to point B, that is not following a road. What do I say to them about the safety components when you all can't even get the regs out that we thought were necessary that you get out 4 years ago, because of previous safety problems? How do I make my constituents feel like if somebody is putting a 42-inch natural gas pipeline through their property or near their property, or they are near one of the compressing and pumping stations, how can they feel safe, what can you say to them, because I will tell you that this one constituent in particular is watching, so look at the camera and tell her how can she feel safe if her farm is now going to be dissected or cut through by a pipeline?

Ms. CUMMINGS. Well, PHMSA is first and foremost a safety agency, and the safety of those pipelines are what we think about 100 percent of the time. And while we are working on those 42 mandates, and working on getting those regulations out, we have a lot of experience with new construction because we spend about 25 percent of our inspection time with new construction, looking at how they are implementing our regulations, how they are testing to make sure they are safe, and what we have done is we have actually learned a lot about new construction that we have put out through safety advisory bulletins, that we have put out to the industry in different ways that helps to ensure that we learn a lesson.

Mr. GRIFFITH. And I know that you are trying, but it doesn't instill confidence when we hear about other pipeline problems in other parts of the country, when we hear that pipelines that may have problems are still being used, and now they are saying they want to bring a pipeline through our area. It causes great concern

on the safety factor. What about the shut-offs in rural areas, should they be closer together. Is that something that we should be working on in Congress?

Ms. CUMMINGS. So I think we talked earlier about a 2012 report that talked about automatic shut-off valves, and it talked about them being technically, operationally, and economically feasible, but not in all cases. And so we will be putting out proposed rules that will capture the right stakeholder information to make sure that we put out regulations that are going to meet the safety requirements without creating unintended consequences.

Mr. GRIFFITH. Well—and I appreciate that. Another question I get on a regular basis as a result of being right in the eye of the storm for major pipelines coming through the area is why are we cutting through new paths? Is there some safety reason why you don't want to collocate natural gas pipelines together, because we are cutting through a bunch of new paths, not following the lines that are already there?

Ms. CUMMINGS. Yes. We as a safety agency, we don't have a primary lead role in the permitting and——

Mr. GRIFFITH. I understand that. My question is, is there a safety concern with collocation?

Ms. CUMMINGS. Yes, I understand. Can I get back to you on the record? I don't know the answer to that question, I am sorry.

Mr. GRIFFITH. All right, I would greatly appreciate it because I probably have—I know I have at least one watching, but I have a lot of constituents who want to know the answer to that question.

Ms. CUMMINGS. OK.

Mr. GRIFFITH. With that, I see my time is up. And, Mr. Chairman, I appreciate you having this important hearing, and I yield back.

Mr. WHITFIELD. At this time, recognize Mr. Loeb sack for 5 minutes.

Mr. LOEBSACK. Thank you, Mr. Chair. Good to see you, Ms. Cummings.

Ms. CUMMINGS. Thank you.

Mr. LOEBSACK. I am from Iowa, and I think a lot of us on both sides of the aisle have a lot of concerns being from these rural areas——

Ms. CUMMINGS. Yes.

Mr. LOEBSACK [continuing]. And I echo many of those concerns that have been already mentioned today. I think I mentioned to you before your testimony that we have a proposed Bakken Pipeline that would extend from northwest Iowa down through my district, much of my district, all the way down to southeast Iowa, and it would bring that crude from North Dakota, transport it eventually to points of the east and south. And I just have a question, from your perspective, you mentioned that you are involved in safety and all the rest. Eventually, this is going to be approved or not by the Iowa Utilities Board, there is not a federal role as far as approval of this pipeline is concerned, but can you talk to me a little bit about sort of the safety concerns that you folks basically have supervision over when it comes to something like this?

Ms. CUMMINGS. Sure. Thank you. The most important thing that we can do is to build safety and build quality into the pipeline be-

fore it actually goes into operation. And so the requirements in our regulations for new construction, a lot of them are prescriptive. So they are looking at things like the material in the weld, and making sure that they are properly installed by qualified people to install them. We also require a hydro test to make sure that, before the pipeline goes into operation, that it is safe and that there are no leaks. We would encourage new construction pipeline to do inline assessments, and to really understand the attributes of the pipeline so that when integrity management principles are applied to that pipeline, that there is a baseline that they can use going forward to look at trends and to be able to identify that risk. And our goal is to prevent pipeline failures, and integrity management and risk management, and inline assessments and other assessments are the way that we do that.

Mr. LOEBSACK. So as the regulations currently exist, encourage is the word—the best word that you can use at this point?

Ms. CUMMINGS. On the hydro test and on the other requirements, those are prescriptive, those are requirements.

Mr. LOEBSACK. Yes.

Ms. CUMMINGS. We have shared information. There is information available in partnership with industry on best practices, and when we identify issues that we see are common across different new construction, whether they are directly applicable to our prescriptive regulations, or whether they are best practices, we have ways that we can share them with our stakeholders to make sure everyone is aware through safety advisories or through workshops.

Mr. LOEBSACK. And so I think that is one of the big concerns that I am hearing—

Ms. CUMMINGS. Yes.

Mr. LOEBSACK [continuing]. Expressed throughout my district is the whole safety issue, leakage, all those things.

Ms. CUMMINGS. Yes.

Mr. LOEBSACK. And if, in fact, the Iowa Utilities Board does approve this pipeline, I am going to want to make sure that my constituents get the best information possible. Opponents are never going to be convinced this thing is going to be entirely safe—

Ms. CUMMINGS. Yes.

Mr. LOEBSACK [continuing]. But using the word encourage doesn't give me a lot of confidence when I go home and then say to them, well, you know, the regulators are telling me they are going to encourage folks to do this or that. So I would hope that there would be something much stronger than that in the regulations. And I do want to, of course, agree with folks here today who have expressed concerns that we haven't seen the final rulemaking actually done yet for a number of these things, and I just want to encourage you, obviously, to use that word, because that is all I can do to make sure that we finish this up.

I have one other question having to do—I don't think it has been brought up yet today. I served on the Armed Services Committee for 8 years. Traveled overseas quite a lot. I am not on the Homeland Security Committee, but, I have a map, an alleged map at least, of pipelines that are in Iowa, and I didn't get that map because I am a Member of Congress and because I have some kind of security clearance to have access to that map. I have a lot of con-

cerns about access to information that is open to the public, especially when it comes to potential terrorist threats. Talk to me about that. Talk to us about that. How this information that could be used by potential domestic or international terrorists to disrupt a pipeline gas or oil, or whatever the case may be, how are we sure that information is not available to folks out there who want to do harm to our country?

Ms. CUMMINGS. The National Pipeline Mapping System does have rule-based access, meaning that the information that is available to the public is information that we have deemed is not security-sensitive. We take that threat very seriously as well, and this committee and our statutory authority has given us the ability to redact information that we make public to make sure that security sensitive information is not included in public release. The information that is available to local lawmakers, to local emergency responders, they apply for that access, and they are only given that access when we verify their identity and their need to have that type of information.

Mr. LOEBSACK. OK. Thank you.

Ms. CUMMINGS. Thank you.

Mr. LOEBSACK. Thank you for your testimony.

And I yield back, Mr. Chair.

Mr. WHITFIELD. The chair recognizes the gentleman from Ohio, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. And, Ms. Cummings, thanks for joining us today.

In your response to Representative Olson a little bit ago, you said that PHMSA is looking at how to improve and expand—improve, expand, and enhance risk-based management. Would you explain a little bit more in detail what you mean by that? How are you going to go about doing that?

Ms. CUMMINGS. Sure. We have several ongoing rulemakings that have been the topic of discussion this morning, and integrity management, which is our risk-based approach to pipeline safety in high consequence areas, relies on that risk-based approach. And those rules are going to be proposed to expand where we are using those risk-based methodologies, meaning on the percentage of pipe that we are looking at to apply those integrity management principles where it makes sense, and also to improve integrity management. I mentioned that in September, we are going to be holding a workshop, and we are going to be bringing in folks from across different industries such as aviation, the energy industry, nuclear, for example, who use risk-based approaches, and look at how they model risk because in order to mitigate the proper risk, in order to avoid a pipeline failure, you need to be identifying the right risk, assessing that risk, and then mitigating it properly for your pipeline. And so those are some of the examples of ways that we are going to be improving integrity management, both internal to PHMSA and our oversight, but also integrity management in the industry.

Mr. JOHNSON. Are you including cost in that analysis and in the improvement effort, and are you having difficulty in incorporating cost into a risk-based regulation?

Ms. CUMMINGS. Our statutory authority for PHMSA requires that our regulations have benefits that exceed costs. So that is part of our statutory requirement. So yes, we are looking at the cost to implement these improvements versus the safety benefit. So in order to do that, we have a team of economists and they look at past performance, so the risk goes back to likelihood and consequence, the likelihood and the cost of that consequence, and then the safety requirements we put in place, how much it costs to implement them, and we do a comparison of the benefit versus the cost.

Mr. JOHNSON. OK. All right, Section 21, Ms. Cummings, directed PHMSA to review and report to Congress on existing federal and state regulations for all gathering lines. With the report, which was submitted more than 1 year late, PHMSA stated that it is considering the need to propose additional regulations to ensure the safety of natural gas and hazardous liquid gathering lines. So is PHMSA reviewing the need to propose changes to existing exemptions from federal regulations for gathering lines, and if so, when will this review conclude?

Ms. CUMMINGS. Yes, the report that you are referring to we delivered to Congress earlier this year, and what we found is that some gathering lines are actually—have the same attributes as transmission lines as far as size and amount carried. And so as a result of that report, we are looking at our regulations and we expect to propose in our future rulemaking proposals in the near future, to look at how we can capture more information about gathering lines, as well as what parts of our regulations should be applied to gathering lines based on what we learned in that report.

Mr. JOHNSON. OK. All right. Mr. Chairman, I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time, recognize the gentleman from Maryland, Mr. Sarbanes, for 5 minutes.

Mr. SARBANES. Thank you, Mr. Chairman. Thank you for being here.

Can you give us a sense of how much pipeline infrastructure overall is within the jurisdiction of your agency, kind of describe that quickly?

Ms. CUMMINGS. Sure. There are 2.6 million miles of pipeline in the nation. While we as a federal regulator, we issue regulations across the entire nation for those pipelines, from an oversight and enforcement perspective, we partner with the states. So the states actually oversee 80 percent of those 2.6 million pipelines. We enforce and oversee 20 percent. But the states are very close partners of ours. We provide them with training, certification, as well as grant funding, and we provide them mentorship as well.

Mr. SARBANES. So do you consider—I mean your direct oversight is with respect to 20 percent, but—

Ms. CUMMINGS. That is right.

Mr. SARBANES [continuing]. Presumably, you consider yourself as having oversight responsibility with respect to the 100 percent acting in partnership.

Ms. CUMMINGS. Correct. In partnership with our states.

Mr. SARBANES. Yes. And can you give me a sense of the actual amount of FTE, or sort of what the capacity of your compliance and enforcement staff is within your agency specifically?

Ms. CUMMINGS. Sure. We are very grateful that this year our 2015 budget gave us the funding we needed to hire 109 new people into the pipeline part of our organization. Our field staff prior to that influx of new people was about 135 people. We are bringing in that 109 new people, so we are almost doubling our enforcement staff with the positions that were appropriated—the funds that were appropriated this year for new positions. So we have in the past, I would say if you are looking at legacy—

Mr. SARBANES. Yes.

Ms. CUMMINGS [continuing]. Thirty, thirty-five or so positions.

Mr. SARBANES. In any event, I would imagine that you have some reasonable expectation that the industry, the pipeline industry itself, will come with kind of a good faith commitment to meeting the standards that apply to it. Nevertheless, we have seen companies, like the Plains All American Pipeline and others, that don't have a great track record when it comes to putting these kinds of things in place and adhering to them. And I was wondering what your thoughts might be on ways to create more accountability within the industry itself, within these companies, so that the sort of compliance and accountability arm within those organizations has a heightened sense of responsibility. That could include things like certifying that they are meeting certain standards as a corporation, for example, an understanding that there might be consequences for not stepping up to that statement of accountability. Have you thought about things like that that could improve what I would say in the best sense could be cooperation between the agency's oversight and the industry's own responsibility to come in and step up to its accountability?

Ms. CUMMINGS. Absolutely. An operator is 100 percent responsible for the safety of the pipelines that they operate, and they do so under our enforcement and under our guidance and regulations. One thing that we at PHMSA were happy to see is, in the last week, API released a safety management system best practices document that really was the industry coming together and looking at a tool, safety management systems—

Mr. SARBANES. Yes.

Ms. CUMMINGS [continuing]. That has been successful in other industries, and it would take sort of the things we have been talking about today, about integrity management being risk-driven, and really take that to another level. So I believe that the industry is responsible for safety. I think that they know they are responsible for safety. This is a great step that they took in partnership with us. We were on the teams putting this together. The combination of both prescriptive and performance-based regulations from PHMSA are another way that industry can, through our performance-based specifications, apply technology that is going to make the pipeline system, the pipeline networks, safer.

Mr. SARBANES. Right.

Ms. CUMMINGS. And so, yes, there is a lot we can do together—

Mr. SARBANES. Great. OK.

Ms. CUMMINGS [continuing]. To improve pipeline safety.

Mr. SARBANES. Well, I appreciate that. And it will be interesting to monitor how the industry fulfills those new expectations, but I think that there could be a place in the future if we don't see that kind of accountability that needs to be there, for people within these organizations kind of having to sign on the dotted line and certify that these things are in place, and put their name as leaders of those organizations behind those commitments.

Thank you, and I yield back.

Mr. WHITFIELD. At this time, recognize the gentleman from Texas, Mr. Flores, for 5 minutes.

Mr. FLORES. Thank you, Mr. Chairman. And thank you, Ms. Cummings, for joining us today.

A lot of great questions have been answered and so I just have a couple of things I would like to drill into that follow up a little bit on Mr. Sarbanes' question, but more closely to Mr. Pitts' questions. I think in response to one of Mr. Pitt's questions you said that the progress you have made to—hiring that 109 new people is 46 percent, is that correct?

Ms. CUMMINGS. Correct.

Mr. FLORES. OK, I just want to verify that. And in your response you also said something about requesting direct hire approval. Can you tell the committee what does that give you, what does that mean, and how do you get that approval?

Ms. CUMMINGS. Direct hire authority is a tool in the Federal Government that allows us to streamline the hiring process. It is something that we had requested of the Office of Personnel Management. We heard back that it was not approved. We think that that is one tool that we were looking at, but we are looking at a lot of other tools to recruit for qualified and well-educated people who want to dedicate their life to public service, and dedicate their life to safety. So we are actively recruiting for positions across the country, as well as here in D.C. And I think I mentioned also that tomorrow we are going to be having a veterans hiring fair at the Department of Transportation. So we are really focused on getting great people into the department, again, who are dedicated to public service.

Mr. FLORES. If you had had direct hire authority at the beginning of the fiscal year when you got the additional funding, where do you think you would be on the hiring today?

Ms. CUMMINGS. I think we would be much further along. I don't want to commit and say that we would be at 100 percent right now. But we need to make sure that we are hiring the right people, and so a lot of the process is going through the reviewing resumes and making sure that we are doing good interviews, and that we are getting the right people with the right skills, but I do think we would make more progress. Thank you.

Mr. FLORES. That is all the questions I have. Thank you. I yield back.

Mr. WHITFIELD. Thank you.

At this time, recognize the gentleman from Oklahoma, Mr. Mullin, for 5 minutes.

Mr. MULLIN. Thank you, Mr. Chairman. And thank you, Ms. Cummings, for being here.

A lot of talk has been, obviously, on the pipelines and yet the pipelines still provide the best option, provide the resources we are needing to ship across this country from part A to part B. In fact, 99.9 percent of all of it in the pipelines, be it natural gas or oil, gets to its destination with zero incidents. And without question, it is a vital part of the infrastructure, and a competitive advantage we have in this country for our energy rates being at the low level that they are. And what we are talking about right now is going back to 2011 when there were 17 mandates that hadn't been implemented, and we have talked a lot about that, but I don't know if we have really spent the time about the industry itself. See, as a business owner, the biggest problem we have is understanding where the regulatory environment is going, and it is certainty that we are needing. It is understanding of what are we going to have to comply with. When we are bidding a job, we have to understand what our cost is going to be. And since we have been waiting for 4 years for PHMSA to implement these, it is creating a tremendous amount of uncertainty of knowing where the industry can go. We know we are going to have to start building some pipelines in a serious way. I mean as this Administration's war on coal continues, we are going to have to get a lot more pipelines in the ground to provide the resources we are going to have to have.

And, ma'am, the position that you are in is kind of in question. I mean you are filling in a position, and I commend you for that—

Ms. CUMMINGS. Thank you.

Mr. MULLIN [continuing]. But are you capable right now to steer to steer PHMSA in the right direction? Are you able to make those decisions or are you guys going to be sitting there waiting for the next administrator to be assigned to you?

Ms. CUMMINGS. The President nominated Marie Therese Dominguez—

Mr. MULLIN. Right.

Ms. CUMMINGS [continuing]. And we are anxiously awaiting her confirmation. She is serving right now as the deputy administrator at PHMSA. The career staff, the entire operation at PHMSA is fully dedicated to achieving these mandates, and regardless of the fact that we are in a transition does not stop those career employees that work for us from every day dedicating their time to safety and to completing these mandates.

Mr. MULLIN. Then why haven't they been completed? When the President puts out an order, it is done. We seem to implement very complicated—in fact, some regulations it is not even obtainable and we are already enforcing them. And we are talking about setting 17 mandates back from 2011. And look, I am not pushing for them to be there, I am just saying that either tell the industry you are moving forward or you are not, or say, hey, we are going to take the best practices that you guys have already put in place, which this might be an idea. What you guys have done, you have improved safety in a tremendous amount so far on your own. The industry has on their own. Maybe we take their best business practice and say we are going to take this and apply this, and we are going to see how it moves forward, rather than keeping the industry in limbo. And I understand, ma'am, you are doing the best you

can, but we are talking about an industry that is a vital resource that we have inside the United States, that provides the infrastructure and the resources that all of us use. I don't care what side of the aisle you fall on fossil fuels or not, you use them. So we are trying to make sure that we don't run short of that supply, and I am just wanting to make sure that we create the certainty for the industry that is needed to be there. And, Ms. Cummings, I really do applaud you because I think you are doing an outstanding job in the position that you are in, but I want to make sure that the industry isn't held hostage at this time too.

So thank you for being here. And thank you, Chairman, for holding this important meeting.

Mr. WHITFIELD. Well, thank you.

And that concludes the questions, except for mine, and I am going to recognize myself for 5 minutes. But, Ms. Cummings, also, I want to thank you for being with us and addressing the concerns of the committee.

Ms. CUMMINGS. Thank you.

Mr. WHITFIELD. And I think it is quite obvious to everyone that one of the major concerns is that this Act was adopted in 2011, re-authorizing—we have 16 mandates that really have not been addressed. And Mr. Mullin, I think, made an important point in his remarks, and that is that these pipeline companies, as they are involved in maintenance, constructing new pipelines, making improvements, the uncertainty of what is going to happen in these areas does present some problems for them. And I don't think any of us can say with certainty that the fact that these 16 mandates have not been put in a regulation had anything to do with these spills. We don't know that. But one conclusion we can come up with and we know for a fact that you all cannot do any of your regulations, you can't make them final without a signoff of OMB, they have to be involved in that process, and every agency—and in Congress, we all have our priorities and I think everyone recognizes that the priority for this Administration is the Clean Energy Plan, and that is a priority for OMB, and EPA has been super aggressive in that area. And one conclusion that we can come up with is that MSHA and the regulations coming out of your agency is not the same priority as the Clean Energy Plan in this Administration. Now, I am not going to ask you to address it, but that is a logical conclusion that we can come up with.

So I want to thank you once again. We look forward to working with you as we move forward, and you can be relieved at this time. And thank you for being with us.

And I would like to call up the second panel of witnesses at this time. And if the second panel would just have their seat, and then I am just going to introduce you when you give your opening 5-minute statement, and then we will go from there.

OK, our first witness today is Mr. Stan Wise, who is a Commissioner with the Georgia Public Service Commission, and he is going to be testifying on behalf of the National Association of Regulatory Utility Commissioners.

Mr. Wise, thanks very much for being with us, and you will be recognized for 5 minutes. And we would just ask you to turn the microphone on, and just kind of watch when the red light goes on

and your time has expired. But thanks for being with us, and you are recognized.

STATEMENTS OF STAN WISE, COMMISSIONER, GEORGIA PUBLIC SERVICE COMMISSION (ON BEHALF OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS); DONALD SANTA, PRESIDENT AND CEO, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA; RON BRADLEY, VICE PRESIDENT OF GAS OPERATIONS, PECO ENERGY (ON BEHALF OF THE AMERICAN GAS ASSOCIATION); ANDREW BLACK, PRESIDENT AND CEO, ASSOCIATION OF OIL PIPE LINES; CARL WEIMER, EXECUTIVE DIRECTOR, PIPELINE SAFETY TRUST; AND DIANNE BLACK, ASSISTANT DIRECTOR OF PLANNING AND DEVELOPMENT, COUNTY OF SANTA BARBARA, CALIFORNIA

STATEMENT OF STAN WISE

Mr. WISE. Well, good morning, Mr. Chairman, and members of the committee. Thank you so much for this opportunity to testify on this very important issue.

I am testifying on behalf of my state and NARUC, and first, let me just say that Georgia's Pipeline Safety Program is one of the larger state programs based on service, miles, mains, inspectors, and budget, and our program has been ahead of the curve on cast iron replacement and bare steel. We have less than 5 miles remaining. We have done it over a 20-year period. And let me say, in no small part, it is important that we recognize the relationship that our inspectors and our state has had with PHMSA, and the ability to go ahead and be able to do the job we can because of that important financial partnership as well as a sharing of information as we go along.

But one issue that continues to cause problems for us is the increasing delays in receiving base grant reimbursements, and like other states over the past few years, the amount of time that Georgia has had to wait to get paid for enforcing these important pipeline safety rules has increased steadily.

And in years past, our finance department could depend on timely payments, which is very important in tight state budgets. This clearly is an issue that needs to be resolved.

Nineteen states have adopted new civil penalty standards. Some states believe that it is more important to penalize earnings or rates of return rather than to simply levy fines. We also believe that the state damage prevention issue prevents some states from participating in the program, and ineligible for state one-call and preventive grants, because of state law. And these exemptions directly affect safety in those states, and is counterproductive to the goal of preventing damage. We do agree that PHMSA needs to publish the required study on automatic and remote-control shut-off valves. States need to know what this rate structure is, even if it raises rates in our state, for the stability that would be required for the installation and maintenance of these facilities. PHMSA has not published the evaluation of the current integrity management regulations, and whether or not these requirements should be expanded beyond the high consequence area. NARUC and its mem-

bers are very interested in the findings of this study. High consequence areas, and they have not—PHMSA has not updated the National Pipeline Mapping System to include the identification of high consequence areas.

On leak detection, PHMSA has produced a report, but not yet published the notice of proposed rulemaking. The language in the 2011 Act has caused financial difficulties in the states which I referenced, and specifically to Georgia, and they must issue waivers for the 36 more states each year.

Gathering lines is certainly important in this new paradigm of oil recovery in our country, and we suggest that the gathering lines should be regulated in order to risk to the public.

Notice of proposed rulemaking released on excess flow valves was released earlier this month. NARUC is currently reviewing that proposal.

We also believe that PHMSA has not yet implemented regulations on maximum allowable operating pressure. We need to see these rules in a prudent and expeditious manner to ensure the public safety of these lines.

Mr. Chairman, we specifically speak to safety and efficiency issues. It could be economic. These are important issues to our states. The implementation and the reauthorization of the Pipeline Safety Act is important to NARUC and our states, and we thank you for this time to be able to express our views.

[The prepared statement of Mr. Wise follows:]

BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON ENERGY AND POWER

TESTIMONY OF THE HONORABLE STAN WISE
COMMISSIONER, GEORGIA PUBLIC SERVICE COMMISSION

ON BEHALF OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

ON

“Oversight of Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011”

July 14, 2015



National Association of
Regulatory Utility Commissioners
1101 Vermont Ave, N.W., Suite 200
Washington, D.C. 20005
Telephone (202) 898-2200, Facsimile (202) 898-2213
Internet Home Page <http://www.naruc.org>

**Summary for Testimony of the Honorable Stan Wise
On Behalf of
The National Association of Regulatory Utility Commissioners**

Increased Civil Penalties - 19 States have adopted the new mandated Civil Penalty level, some States believe that it is more productive to penalize earnings or rates of return rather than simply levying fines when a violation occurs.

State Damage Prevention – Current law makes States with exemptions to Damage Prevention laws ineligible for State One-Call and State Damage Prevention Grants. NARUC opposed this provision in 2011. This provision has created problems for States as they cannot access grants for damage prevention. This is counterproductive to the goal of preventing damage.

Automatic and Remote Controlled Shut-off valves - PHMSA has not published the required study to date. This study will help us determine whether or not additional State requirements may be in order. States will need to provide a rate structure to our regulated utilities that would provide for the recovery of any additional costs incurred by our utilities that may be required for the installation and maintenance of these facilities.

Integrity Management - PHMSA has not published the evaluation of the current Integrity Management Regulations and whether or not these requirements should be expanded beyond High Consequence areas. Again, NARUC and its members are very interested in the findings of this study. This may also have an upward rate impact on our consumers, but could also lead to safer pipeline infrastructure in the States.

High Consequence Areas (HCA) Mapping - PHMSA has not updated the National Pipeline Mapping System to include the identification of High Consequence Areas. They have updated access to the National Pipeline Mapping System by making it available for the general public, however due to security reasons the system does not provide a level of detail that much of the general public would find useful.

Leak Detection – PHMSA produced a report, has not as of yet published Notice of Proposed Rulemaking.

Maintenance of Effort – Language in 2011 Act has caused financial difficulties in the States and is not working when PHMSA must issue waivers for 36 or more States each year.

Gathering Lines - PHMSA published its study to Congress on May 8, 2015, and suggested gathering lines should be regulated in order to reduce risk to the public. NARUC agrees with this assessment.

Excess Flow Valves – Notice of Proposed Rulemaking released on July 7, 2015. NARUC is currently reviewing the proposal.

Maximum Allowable Operating Pressure (MAOP) – PHMSA has yet to implement regulations. NARUC encourages PHMSA to develop these rules in a prudent and expeditious manner to ensure the public safety of these lines.

Accident and Incident Notification - PHMSA currently has posted on its website a proposed Notice of Proposed Rulemaking (NOPR) requiring one hour notice of the confirmed discovery of accident or incident rather than two hours. NARUC supports the shorter notification period.

Georgia's Pipeline Safety Program - Georgia's Pipeline Safety Program is one of the larger state programs, based on services, miles of mains, inspectors, and budget. Our program has been ahead of the curve on cast-iron replacement (less than 5 miles remaining), vintage plastic replacement, and damage prevention. Georgia is a recipient of PHMSA's base grant, state damage prevention grant, and one-call grant. One issue that continues to cause problems for us is the increasing delays in receiving base grant reimbursements. Like other states, over the past few years, the amount of time Georgia has had to wait to get paid for enforcing federal pipeline safety rules has increased steadily. In years past, our finance department could depend on timely payments, which is very important on tight state budgets. This is an issue that needs resolution.

NARUC Legislative Proposal – We have attached an addendum of legislative language for inclusion in a reauthorization bill. The proposals address the following issues: Maintenance of effort; Indirect Cost Limitation Elimination; NAPSIR Invitational Travel; NAPSIR Administrative Manager Grant; Increasing One-Call Grant; Exemption Requirement for One-Call Grant; Gathering Line Regulation; Design Review Requirement when requested by a State; Transportation of Un-odorized Gas; Interstate Agent Agreements.

Good morning Chairman Whitfield, Ranking Member Rush, and Members of the House Committee on Energy and Commerce, Subcommittee on Energy and Power. My name is Stan Wise and I have the honor of serving as Chair of the National Association of Regulatory Utility Commissioners (NARUC) Committee on Gas. I am also an elected member of the Georgia Public Service Commission. My comments today will be reflective of both positions.

NARUC is a quasi-governmental, non-profit organization founded in 1889. Our membership includes the public utility commissions serving all States and territories. NARUC's mission is to serve the public interest by improving the quality and effectiveness of public utility regulation. Our members regulate the retail rates and services of electric, gas, water, and telephone utilities. We are obligated under the laws of our respective States to assure the establishment and maintenance of such utility services as may be required by the public convenience and necessity and to assure that such services are provided under rates and subject to terms and conditions of service that are just, reasonable, and non-discriminatory.

Thank you for the opportunity to testify today on the oversight of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. My comments today will focus on those applications and policies that are within the purview of State utility regulators. I applaud the Committee for holding today's hearing so we can discuss both what has occurred since the last pipeline safety reauthorization and what will need to be considered as Congress begins the process for the next reauthorization. For the nation's State economic utility regulators, ensuring safe, reliable, and affordable utility service is our most pressing focus. This has been our

responsibility for the last 126 years, and with the changes confronting the gas and electric sectors, it will only grow in importance in the future.

Today's hearing is timely. Due in part to the 24/7 news cycle, citizens hear about pipeline incidents whenever and where ever they occur, some of which tragically lead to loss of life and/or adverse consequences for the environment. This in turn can lead to the perception that our nation's pipeline and gas distribution system is "inherently unsafe." In my opinion, that perception is a gross exaggeration. While we know that we will always need to be vigilant and continue to upgrade to make the system safer, pipelines are still the safest way to move these commodities.

From an economic and safety regulators point of view, I believe we are facing a "pipeline safety paradox." That being, if we could make the system so absolutely 100 percent safe – no possibility of any accidents – then the system would likely be too expensive for anyone to use it. Conversely, if the system was so unsafe that it was prone to failure more often than not, then even though it would most likely be very inexpensive, no one would **want** to use it. Therefore, it is the job of all stakeholders – government, industry, and advocates – to continue to strive to find the "sweet spot" where we have the safest possible system at a price we can all afford. In other words, utility regulators must utilize a risk-based formula when assessing a rate structure and the needs of our regulated utilities. Consumers come in all shapes and sizes, but their expectation of safe, affordable, reliable utility service does not change no matter who is producing or delivering their gas.

Much has been accomplished since the 2011 Act, and still more is necessary. I would like to spend a few minutes reviewing what has been done and what NARUC members believe may need additional effort since enactment.

Increased civil penalties to \$2,000,000

The Pipeline and Hazardous Material and Safety Administration (PHMSA) adopted the higher penalty in Amendment 190-16, 78 FR 58912, September 25, 2013. While thus far 19 States have adopted the new mandated Civil Penalty level, some States believe that it is more productive to penalize earnings or rates of return rather than simply levying fines when a violation occurs.

State Damage prevention

The 2011 reauthorization required States with exemptions for municipalities from the Damage Prevention Laws to repeal those exemptions or they would no longer be eligible for State One-Call Grants and State Damage Prevention Grants. NARUC opposed this provision because we believe that it is counterproductive to remove eligibility for funds that are meant to assist in improving safety because the federal government does not believe exemptions are safe. This is somewhat analogous to saying “because one is not eating safely enough, their food will be taken away.” PHMSA’s interpretation of the Act requires that this be stated in the States Damage Prevention Laws. There are States that have these requirements in sections of other statutes; however PHMSA has determined these States to be ineligible for these grants because the specific language is not contained within their Damage Prevention Laws. NARUC has provided two proposals, which will be discussed later, to mitigate this situation.

In 1983, when the State Damage Prevention grant was first authorized, it was set at \$1,000,000 and has not increased since its inception. Additionally, One Call Grants are capped at \$50,000 in order to provide funding for eligible activities to as many states as possible. Currently, there are States that would like to participate in the One Call program but due to the limited amount of funding and the time constraints to administer this grant, the amount provided to the states has served as a disincentive.

Automatic and Remote Controlled Shut-Off valves

PHMSA has not published the required study to date. States are very interested in this study, as it will help us determine whether or not additional State requirements may be in order. Since most of the State Pipeline Safety Agencies are part of State Utility Commissions, we will need to provide a rate structure to our regulated utilities that would provide for the recovery of any additional costs incurred by our utilities that may be required for the installation and maintenance of these facilities. These costs will be borne by our State ratepayers resulting in a higher rate impact.

Integrity Management

PHMSA has not published the evaluation of the current Integrity Management Regulations and whether or not these requirements should be expanded beyond High Consequence areas. Again, NARUC and its members are very interested in the findings of this study. The Integrity Management regulations could lead to safer pipeline infrastructure in the States, however, this may also have an upward rate impact on our consumers. This is part of the risk-based assessments I mentioned above.

High Consequence Areas (HCA) Mapping and Updates

PHMSA has not updated the National Pipeline Mapping System to include the identification of High Consequence Areas. They have updated access to the National Pipeline Mapping System by making it available for the general public, however due to security reasons, the system does not provide a level of detail that much of the general public would find useful. PHMSA has started to identify the number of miles of HCA each operator has in each State through its Pipeline Data Mart, but this also does not identify where the HCA's are and is not available to the general public.

Leak Detection

To date, PHMSA has produced the required report. PHMSA has yet to publish a Notice of Proposed Rulemaking for this item.

Maintenance of Efforts Clause

The language in the 2011 Act has caused many financial difficulties for the States during and after the last recession. The law requires that a State must maintain or increase spending on its pipeline safety program based on a rolling average of the previous three years of spending.

PHMSA's response was to grant waivers for 2012 and 2013 to States that could demonstrate an inability to maintain funding due to State economic hardship. In 2014 approximately 36 (this number has been as high as approximately 40) State Pipeline Safety Programs requested and received these waivers—which they greatly appreciated. NARUC has proposes changes to this requirement that I will discuss later.

Gathering Lines

PHMSA published its study to Congress on May 8, 2015, and suggested gathering lines should be regulated in order to reduce risk to the public. NARUC agrees with this assessment and proposes legislative language which I will discuss below. The largest issue in regulating gathering lines is the determination of where production ends and gathering begins. The PHMSA report does not address this issue, while the NARUC proposal provides a clear cut definition of where a jurisdictional gathering pipeline will begin. With the advent of new drilling technologies, gathering lines have become larger – a recent Texas incident for a gathering line involved a 42 inch diameter natural gas pipeline – and some of these pipelines operate at pressures up to 2000 psig. These lines, even if they are located in rural areas, act more like transmission lines than the historic gathering lines. With the higher pressure and larger diameter pipes, and no federally supported regulation, there is a significantly higher risk to life and property. Additionally, the gas transported by gathering lines contains impurities like Carbon Dioxide (CO₂) and Hydrogen Sulfide (H₂S) which can also pose risks to the public. H₂S is fatal at concentrations as low 100 part per million and may be present in gathering lines of any size or operating pressure. These impurities are removed in the processing stage of natural gas; which is then transported in transmission lines to the final end user.

Excess flow valves

PHMSA issued a notice of proposed rulemaking on July 7, as this statement was being drafted. NARUC is currently in the process of reviewing the proposed rule, however we are very interested in the development of these regulations, as they are safety related and also may have

rate impacts to consumers. We also understand the difficulty that PHMSA may have had in developing these rules, especially for small commercial service, which one week may be a small grocery store and the next week a large pizza restaurant. These businesses have extremely different gas volume requirements and developing rules to meet these changing needs is difficult.

Maximum Allowable Operating Pressure (MAOP)

PHMSA has yet to implement regulations for gas transmission line operators to confirm the material strength of pipelines operating at pressures greater than 30 percent of the Specified Minimum Yield Strength of the pipeline material operating in High Consequence Areas. NARUC encourages PHMSA to develop these rules in a prudent and expeditious manner to ensure the public safety of these lines.

Accident and Incident Notification.

Section 9 of the 2011 Reauthorization required PHMSA to clarify that pipeline operators had one hour to report an incident to the National Response Center, instead of the two hours as stated in an advisory bulletin published on September 6, 2002; 67 FR 57060. PHMSA currently has posted on its website a proposed Notice of Proposed Rulemaking (NPR) requiring one hour notice of the confirmed discovery of accident or incident. In some cases, operators are not reporting incident occurrences until days after the incident occurred. In a recent case in Little Rock, Arkansas, this year, an interstate pipeline erupted on a Sunday afternoon and was not reported by the operator to the National Response Center until the middle of Monday afternoon. As of the writing of this testimony the NPR has not been published in the Federal Register. NARUC supports the shorter notification period as it will help in getting both State and federal

investigators to the incident in a more-timely manner and aid in determining any additional resources that may be need in the recovery process. The National Response Center notifies several other agencies in addition to PHMSA and the State pipeline program, including individual State Homeland Security offices and Environmental Protection Agencies as well as State Emergency Management Offices. With the quicker reporting, these agencies will have additional time to develop their action plans to respond to the incident or accident.

Georgia's Pipeline Safety Program

Data:

Number of Services (from street to house/business/meter)	2 million
Distribution Mains	>43 million miles
Transmission Mains	>1,200 million miles
2014 Budget	Approximately \$1.8 million
Number of Inspection Days	950+ days

Georgia's Pipeline Safety Program is one of the larger state programs, based on services, miles of mains, inspectors, and budget. Our program has been ahead of the curve on cast-iron replacement (less than 5 miles remaining), vintage plastic replacement, and damage prevention. Georgia is a recipient of PHMSA's base grant, state damage prevention grant, and one-call grant. Although these programs do require some administrative effort on the state's part, Georgia's overall experience with these grants has been positive for many years. However, the one issue

that continues to cause problems for us is the increasing delays in receiving base grant reimbursements. Like other states, over the past few years, the amount of time Georgia has had to wait to get paid for enforcing federal pipeline safety rules has increased steadily. In years past, our finance department could depend on timely payments, which is very important on tight state budgets. This is an issue that needs resolution.

Georgia has an excellent working relationship with PHMSA's Southern Region. Our Staffs have collaborated on several issues recently, including a much-needed firefighter/emergency response training program, as well as providing technical assistance on an Operator Inspection/Investigation. The Southern Region stands ready to assist Georgia, and we appreciate all of PHMSA's efforts directing funds to strengthen the regional/state relationships.

NARUC Legislative Proposals

I would now like to turn attention to looking at the 2015 reauthorization process before Congress. As I mentioned earlier, NARUC and its membership is committed to pipeline safety and believes that the current Act needs to be modified and strengthened to enhance pipeline safety for natural gas and hazardous liquids transported throughout the United States.

NARUC has identified sections of the current Act that require enhancements to address deficiencies that could have contributed to a number of pipeline failures and accidents in the U.S. We strongly urge Congress to consider our proposals to strengthen pipeline safety regulations so that PHMSA and State pipeline safety programs have additional tools available to inspect

pipelines and ensure compliance with federal and State regulations. Recently, the country has experienced a number of pipeline failures that have harmed the public, property, and the environment. NARUC believes that its proposed changes to current law would provide for improved inspections and the removal of risky pipe from service.

I have attached, as an addendum, ten proposed amendments to current law that we respectfully request Congress considers when addressing pipeline safety reauthorization legislation. These proposed amendments are listed in no particular order. I will briefly describe each here.

Maintenance of Effort

PHMSA issues pipeline safety base grants to the States as a result of agreement with the U.S. Department of Transportation, (USDOT) – PHMSA. These base grants are defined as reimbursement grants. By default under a reimbursement grant, States have to front the money for the State pipeline safety programs and then subsequently request reimbursement from PHMSA. In our opinion, since the States are funding their pipeline safety programs for more than 12 months without reimbursement, the States have met the maintenance of effort threshold. As such, the States are already committed to a “maintenance of effort (MOE)” standard. Currently, the Act requires, as part of a MOE, the States to spend an average of their three prior fiscal years’ for their program operational costs. Requiring States to spend at an average of three prior fiscal years has caused almost all States to be unable to meet the maintenance of effort standard in the Act. Thus, this situation then required PHMSA to invent the Suspension Funding mechanism in order to facilitate State pipeline safety funding. The States are thankful to PHMSA

for creating a mechanism to transfer State funds back to the States; however, this action is an unnecessary bureaucratic tangle.

If the MOE language from the current Act is kept in place, PHMSA will have to continue the use of the Suspension Funding mechanism and approve additional MOE waivers (PHMSA calls this waiver a “suspension of the MOE”). PHMSA will also need to request that the USDOT Secretary grant these waivers and the Secretary will have to continue to approve said waivers. This is an indication of a flawed system. When language exists that virtually requires all States to annually apply for waivers then that fundamental language needs to be corrected. If a State does not spend an average of three prior fiscal years as required for the MOE, then PHMSA has declared that the State would not be able to attain any grant money for the year and would lose grant eligibility. This PHMSA action may result in a State experiencing greater financial crisis. The NARUC proposal removes the three year base.

Indirect Cost Limitation Elimination

Originally the Pipeline Safety Act had a limitation of 20% on indirect cost reimbursement; but that limitation has since been removed from statute (§60125). Further, the Act does not make a distinction between direct and indirect costs. Additionally, PHMSA continues to limit State reimbursements to 20% of the indirect cost even though the State has a federally approved Indirect Cost plan that is at a higher level than 20%. NARUC is requesting that the current Act language be changed to allow for all federally approved indirect costs claims be allowed to be recovered by the State.

NAPSR Invitational Travel

NARUC has partnered with The National Association of Pipeline Safety Representatives (NAPSR), a non-profit organization of State Program Managers, whose only function is to promote, educate, and speak on pipeline safety issues within the nation. NAPSR works closely with NARUC to promote pipeline safety. This proposed NARUC change to the Act will provide economic savings to the State pipeline safety programs with regards to traveling to meetings, technical committee work, or training. Currently, PHMSA is permitted to grant funds to cover the expenses resulting from State Program Manager's travel to meetings associated with pipeline safety. However, these funds have been limited by PHMSA. NARUC's proposal would allow the State programs to recover more funds for State Program manager's travel requirements. The proposal would also enable State programs to more fully engage in a mentoring program for inspectors and save travel costs to the State programs.

NAPSR Administrative Manager Grant Considerations

NARUC proposes that this language be adopted so that the Act is clear and allows NAPSR to be eligible for funding that originates for State Authorities. The proposed language eliminates the limiting cap language that currently limits funding of the State programs at 80% and allows for 100% funding for NAPSR. Additionally, the proposed language includes a provision to fund the NAPSR Administrative Manager position salary and benefits. The position is necessary to permit PHMSA and NAPSR to coordinate activities, increase communications, perform committee work, and allows program managers to assume NAPSR Board of Director positions. The Administrative Manager position is vital to NAPSR's mission and is currently

funded through a PHMSA grant. The proposed language allows for the automatic funding of the position through the Pipeline Safety Act.

Increasing One-Call Grant Amounts

The One Call grant is vital to ensuring safe operations of underground facilities. The number one safety issue for all State's pipeline safety programs is damage to underground pipeline facilities. The amount of this grant awarded to States has not changed since 1983. Many States do not apply for this grant because of the small amount of money associated with each State's portion of the grant. The last reauthorization of the Act established two newer grants that have higher dollar amounts than the One Call Grant amount. These two new grants are the State Damage Prevention and Technical Assistance Grants (SDPP and TAG respectfully). In the past, many States utilized the One Call grant to recover costs associated with enforcement activities, but the small amount of the grant precludes its usefulness for enforcement.

Exemption Requirement for One-Call Grant

NARUC's proposed change in this section allows for States' eligibility to participate in One Call grants even though their State may not have a specific provision of law addressing one-call program, but may have policies pertaining to the structure, development, and function of a well-organized One Call System elsewhere in statute. If a States' policy directs the One Call System's function, then the State should be eligible to participate in the grant process. This minor change is needed because many States cannot modify their statutes easily. Without this provision, States that have policies that mirror other States' laws would be prohibited from

applying for One Call grants. Essentially, this proposed provision maintains the intent of the current language by including States' policies toward One Call functionality.

Gathering Line Regulation

The current Act does not address or provide for federal or State jurisdiction over Class 1 Gathering Lines. Class 1 Gathering Pipelines are the only pipeline designation not addressed in the current Act. There is no sound basis for having certain Gathering Lines non-jurisdictional to federal government and State governments for pipeline safety. Under current law, new gathering lines at many locations are not required to be part of an underground damage prevention system, do not require odorization, do not require welding or pressure test standards, do not have to be installed at required depths, and do not even have to report locations to either PHMSA or State Authorities. New gathering lines can have pressures up to 2000 psig and pipe size as large as 40+ inch diameter which are far greater than those that are built for transmission pipelines.

Incidents that occur with these gathering lines are not reportable and hence do not require any investigation yet make the news and erode public trust in pipelines in general. Gathering lines are increasingly interfering with existing transmission systems and can interfere with the Corrosion Protection Systems and Public Awareness Plans of transmission operators. Recently, in Sissonville West Virginia NTSB investigated an incident where a 4" diameter gathering line was subject of the local fire chief's bewilderment because he had no idea that the gathering line was located in this area. The gathering lines of old are no longer the gathering lines being installed today and need increased inspection scrutiny. Citizens deserve equal protection with regards to pipeline safety no matter if they reside in rural areas or in urban areas.

[The addendum to Mr. Wise's testimony has been retained in committee files and can be found at: <http://docs.house.gov/meetings/if/if03/20150714/103737/hhrg-114-if03-wstate-wises-20150714.pdf>.]

Mr. WHITFIELD. Well, thank you, Mr. Wise.

And our next witness is Donald Santa, who is the President and CEO of the Interstate Natural Gas Association of America. Mr. Santa, thanks for being with us, and you are recognized for 5 minutes.

STATEMENT OF DONALD SANTA

Mr. SANTA. Good afternoon, Chairman Whitfield, and members of the subcommittee. My name is Donald Santa, and I am president and CEO of the Interstate Natural Gas Association of America, or INGAA.

INGAA represents interstate natural gas transmission pipeline operators in the U.S. and Canada. The pipeline systems operated by INGAA's 25 member companies are analogous to the interstate highway system; transporting natural gas across state and regional boundaries.

In the wake of the natural gas pipeline accident in San Bruno, California, in 2010, INGAA's Board of Directors committed the Association and its member companies to the goal of zero pipeline safety incidents. While this is a tough and some would say impossible goal to meet, the emphasis is in the right place; a pursuit of excellence.

While progress towards INGAA's goal of zero incidents must continue, whether or not new regulations are issued, it is important and desirable that there be consistency between the voluntary commitments in the INGAA action plan and the regulations that will implement the 2011 Pipeline Safety Act. INGAA has engaged in active dialogue with PHMSA and other stakeholders over the past 3 years to achieve this goal. This has been constructive, and we have every reason to believe that the comprehensive rule proposed soon will affect INGAA's input. Still, these proposed regulations are behind the schedule that Congress prescribed in 2011. INGAA acknowledges that regulation should be thoughtfully considered and include an analysis of costs and benefits. The practical consequences of this delay, however, is to erode the confidence of some pipeline companies that proceeding with the dedication of resources needed to implement the pipeline safety commitments will be consistent with the final rules adopted by PHMSA. This hesitancy is rooted in the perceived risk that the rules ultimately might compel repeating certain steps in the pipeline safety action plan. This is not insignificant. For example, testing pipelines for material strength is both costly and disruptive because pipelines need to be removed from operation to complete this testing. This do-over risk creates financial risk for pipeline operators and their customers, as well as the risk of more extensive operational disruptions that would be needed. This do-over risk should not be permitted to hold us back when we, as an industry and or regulators, should be moving forward.

Our purpose here is to work collaboratively with PHMSA. Because the regulatory process indeed goes beyond what PHMSA can control, INGAA wishes to make the point that it is critical that these natural gas pipelines safety regulations be completed in a workable and timely manner. It is worth recalling that the title of the most recent law reauthorizing the Pipeline Safety Act makes

the point. It is the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011. Regulatory certainty is necessary to move forward.

INGAA supports the reauthorization of the Pipeline Safety Program during this Congress. My written statement includes some suggestions for the legislation, including providing some more definition for several key natural gas regulations. With further definition from Congress, we believe the proposed rules could be completed in a more timely manner, and the pipeline industry would have greater certainty about what future regulations would require. This would allow operators to start working towards those requirements now, as opposed to just waiting until a set of regulations is final at an unknown date. We continue to believe that a reauthorization bill, and the accountability and oversight that comes with it, will help to get PHMSA back on track for meeting the safety mandates required in 2011. I would be happy to discuss this and further suggestions.

Thank you for the opportunity to testify today, and I am happy to answer any questions of the subcommittee.

[The prepared statement of Mr. Santa follows:]

**STATEMENT OF
DONALD F. SANTA
PRESIDENT AND CEO
THE INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA**

**BEFORE THE
SUBCOMMITTEE ON ENERGY AND POWER
COMMITTEE ON ENERGY AND COMMERCE
U.S. HOUSE OF REPRESENTATIVES**

**REGARDING
OVERSIGHT OF THE PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB
CREATION ACT OF 2011 AND RELATED ISSUES**

JULY 14, 2015

Good morning Chairman Whitfield, Ranking Member Rush and members of the Subcommittee. My name is Donald F. Santa, and I am President and CEO of the Interstate Natural Gas Association of America, or INGAA. INGAA represents interstate natural gas transmission pipeline operators in the U.S. and Canada. The pipeline systems operated by INGAA's 25 member companies are analogous to the interstate highway system, transporting natural gas across state and regional boundaries. As you can see from the map below, this is an extensive energy infrastructure system.

U.S. Interstate Natural Gas Transmission Pipelines



INGAA and its members' core mission is the safe and reliable transportation of natural gas. Through a variety of initiatives – including best practices and standards development, regulatory compliance and damage-prevention efforts – our

association has been committed to the continuous improvement of pipeline safety since its inception in 1944. As part of this commitment, INGAA supported the most recent reauthorization of the Pipeline Safety Act, enacted in 2011. We also support implementation of the new law through regulations.

To date, however, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has yet to implement several of the key regulatory mandates from the 2011 Act. INGAA hopes that these proposed regulations will be released for public comment soon, so stakeholders can participate in a process that culminates in final rules within the next year. Another important step for pipeline safety is reauthorization of the Pipeline Safety Act during this Congress. Decisive action by Congress and PHMSA will keep pipeline safety moving in the right direction.

INGAA Safety Commitments

As mentioned, INGAA has a long history of engagement to improve pipeline safety. This began with the development of construction and operating standards during the early years of the natural gas transmission pipeline industry. In 1968, Congress enacted the Natural Gas Pipeline Safety Act, formalizing these standards and making them enforceable. In the decades since, Congress has added new requirements as technology has advanced and the ability to monitor safety performance has improved.

We have long maintained – and regulators agree – that the natural gas pipeline industry operates with a high degree of safety. Accidents are rare, and the number of fatalities and injuries from pipeline accidents is very low. The Department of Transportation states that pipelines are the safest mode of energy transportation.

Still, the pipeline failure in San Bruno, California in 2010 was a wake-up call for our industry. It reinforced for pipeline operators that pipeline safety is not just a matter of regulatory compliance; it is central to the industry's social license to operate. We recognize that safety must be our highest priority.

In the wake of that pipeline failure, INGAA's board of directors committed the association and its member pipeline companies to the goal of zero pipeline safety incidents. INGAA identified the commercial aviation sector as a model of an industry with a similar "zero incident" goal. While this is a tough, and some would say, impossible, goal to meet, the emphasis is in the right place – a pursuit of excellence.

INGAA's overarching goal of zero incidents is anchored by four core principles. These are: (1) commitment to a strong safety culture as a critical dimension of continuous improvement; (2) relentless pursuit of improving by learning; (3) commitment to apply integrity management principles on a system-wide basis; and (4) commitment to engage with stakeholders at all levels.

These core principles provided the basis for a nine-point pipeline safety action plan that the INGAA board endorsed in early 2011. This action plan -- known as the INGAA Integrity Management Continuous Improvement (or IMCI) initiative -- addresses all of the major issues raised in relevant reports by the National Transportation Safety Board as well as the key natural gas pipeline issues addressed within the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 (the 2011 Act). In connection with this, two items deserve specific mention: (1) expanding integrity management beyond High Consequence Areas, and (2) demonstrating that pre-regulation pipelines remain fit for service.

Recent Pipeline Safety Legislation

The Pipeline Safety Improvement Act of 2002 incorporated a new, risk-based approach to safety for natural gas transmission pipelines in federal pipeline safety law. The 2002 reauthorization law directed the Secretary of Transportation to develop a regulation on "integrity management" for natural gas transmission pipeline segments located in populated areas. Regulations subsequently required the operators of such pipelines to: (1) identify pipeline segments located in defined, populated areas, known as High Consequence Areas or HCAs; (2) conduct baseline inspection on such segments within 10 years; and (3) re-assess those segments every seven years thereafter.

This integrity management directive emphasized achieving the greatest enhancement to public safety by reducing risks in populated areas. For interstate natural gas transmission pipelines, only about six percent of total pipeline mileage is located in a defined HCA. Still, because the majority of these segments were inspected using in-line inspection tools ("smart pigs"), over 60 percent of total interstate natural gas transmission mileage has been inspected in order to capture that six percent.

As part of its pipeline safety action plan, INGAA members committed to the phased expansion of integrity management beyond HCAs. INGAA's plan would cover 90 percent of pipeline segments located near people by 2020, and 100 percent of segments located near people by 2030. We advocate a phased approach in part to minimize delivery service disruptions. Testing some pipeline segments will present major challenges because the pipeline must be removed from service for inspection and possible repair and replacement.

The 2011 Act directs PHMSA to examine the expansion of the integrity management program beyond the 2002 requirements, report its findings to Congress and issue any new rules that might be warranted.

The other major issue addressed in the 2011 Act involved whether pipelines constructed before federal pipeline safety regulations took effect in 1970 remain "fit for service." Many of the nation's natural gas transmission pipelines were constructed before 1970. Industry standards then called for operators to test new

pipe to confirm its ability to operate safely at the system's maximum allowable operating pressure prior to placing such pipe in service. Beginning in 1970, operators were required by federal regulations to conduct this testing and retain related records for all new pipelines.

The accident in San Bruno highlighted the need for pipeline operators to ensure that they had adequate testing records. INGAA's members support the validation of testing records, as well as re-testing segments located in populated areas if traceable, verifiable and complete testing records cannot be produced.

The 2011 Act requires regulations on records/testing for pre-1970 pipe. While these regulations have not yet been proposed, PHMSA engaged in a robust pre-rulemaking dialogue with pipeline safety stakeholders, including INGAA and its members, to develop a process to implement this requirement. We anticipate that PHMSA will address this topic, as well as the proposed expansion of integrity management, in its comprehensive natural gas rule currently under review by the Office of Management and Budget (OMB).

Natural Gas Safety Regulations – Importance of Certainty

INGAA's members remain committed to the goal of zero incidents, and progress toward that target must continue whether new regulations are issued, or not. Nonetheless, consistency between INGAA's voluntary commitments and the regulations that will implement the 2011 Act is both important and desirable. INGAA has engaged in an active dialogue with PHMSA (and other stakeholders) over the past four years to achieve this goal. This has been constructive, and we have every reason to believe that PHMSA's proposed rule will reflect INGAA's input.

Still, these proposed regulations are behind the schedule prescribed by Congress in 2011. INGAA acknowledges that regulations should be thoughtfully considered and include an analysis of costs and benefits. The practical consequence of this delay, however, is to erode the confidence of some pipeline companies that their voluntary safety commitments will be consistent with the final rules adopted by PHMSA. Therefore, operators may be reluctant to dedicate the enormous resources needed to implement the voluntary pipeline safety commitments. This hesitancy is rooted in the perceived risk that the rules ultimately might compel a repeat of certain steps in the pipeline safety action plan. This is not insignificant. For example, testing pipelines for material strength is both costly and disruptive to service because pipelines are removed from operation to complete the testing. Therefore, progressive pipeline operators are at risk if they act while new regulations are pending.

Our purpose here is not to be critical of, but instead to work collaboratively with, PHMSA. The regulatory process goes far beyond what PHMSA can control, and policymakers should avoid assigning PHMSA too much blame for the delays in implementing the 2011 Act. Indeed, recent press articles have taken the simplistic

view that PHMSA can simply draft new regulations and unilaterally bring such regulations into force. This narrative ignores the role of the Department of Transportation and OMB in vetting proposed rules before they can be published for public comment. This process is arduous at best. We need to recognize that reality and work with the agencies to make this difficult regulatory process as efficient as possible.

In the end, we need the regulatory certainty that will come with completion of the regulations implementing the 2011 Act. The title of that legislation makes the point. It is “The Pipeline Safety, *Regulatory Certainty* and Job Creation Act of 2011” (emphasis added). Without certainty, in the form of new safety regulations that clearly define expectations, the path forward on natural gas transmission pipeline safety will be far more disjointed.

Legislative Recommendations

INGAA encourages Congress to reauthorize the Pipeline Safety Act during this Congress. Some have suggested that the upcoming reauthorization should be for a limited term of two years rather than the typical four or five years. INGAA questions the utility of such a limited effort. Congress should gather the information needed and make the legislative changes necessary to have confidence in enacting a four-year reauthorization. PHMSA needs certainty too, and a shortened reauthorization term would deprive the agency of the assurance needed to devote its undivided attention to fulfilling its mission.

Finalize PHMSA Rulemakings Required by 2011 Reauthorization

As mentioned, several major natural gas rulemakings from the 2011 Act are incomplete. INGAA’s highest priority for this next reauthorization is providing greater certainty on what those rulemakings will entail, such that industry can continue with confidence its initiatives to fulfill the purposes of the 2011 Act and other guidance even before regulations are finalized. Given how long it has taken to send these proposed rules to OMB for review, and the record of delay in other rulemakings across the executive branch, we have good reason to be apprehensive that it may take several more years to finalize these pipeline safety rules.

INGAA recommends that Congress add further details on expected deadlines, testing levels and performance metrics, for the rulemakings on integrity management expansion and pre-1970 pipeline fitness-for-service. More clearly delineated expectations will provide pipeline operators with the certainty to proceed confidently with initiatives to improve pipeline safety before the rules are finalized.

Eliminate Duplicative Requirements

Beginning with the federal rules promulgated in 1970, natural gas pipeline safety regulations always have prioritized achieving the greatest margin of safety where

pipelines are in close proximity to population. At that time, regulators created four classes of pipe, based on the number of buildings in close proximity to the pipeline right-of-way. At one end of the scale are pipeline segments in rural areas; at the other end are segments in urban areas. A pipeline's class location changes if the number of structures along the pipeline increases. This can trigger a requirement that the operator either operate at a lower pressure – which is usually impractical from an operations standpoint – or completely replace pipelines with thicker-walled pipe.

Pipeline inspection technology now has advanced to a point where operators can inspect pipes internally and assess integrity without removing pipelines from service. This was not possible when the class location rules were adopted in the 1970s. As mentioned, regulations now require natural gas transmission pipeline operators to employ integrity management programs designed to increase the margin of safety for pipe segments located in populated areas. These programs include a thorough risk assessment and detailed pipeline inspections on a regular interval. Smart pig internal inspection technology is the principal method that INGAA members use to comply with integrity management regulations.

Consequently, pipeline operators now must comply with redundant regulatory requirements (integrity management and pipe replacement based on class location) that are intended to address the same problem. Today's use of integrity management principles, and associated inspection technology, is a more sophisticated approach to pipeline safety in populated areas. If pipes can be inspected so that their condition is known, there is no reason for replacing pipeline that remains safe to operate. Eliminating unneeded pipeline replacement also would reduce burdens on landowners and significantly reduce methane emissions and service disruptions.

In the 2011 pipeline safety reauthorization, Congress required PHMSA to assess "whether applying the integrity management program requirements, or elements thereof, to additional areas would mitigate the need for class location requirements." Congress required a report from PHMSA by January 2014. To our knowledge, PHMSA has not submitted this report. We hope PHMSA and Congress will agree to eliminate the overlap between these two regulations.

Update Outmoded PHMSA User Fee Funding

While not INGAA's top priority, the PHMSA user fee and funding regime needs to be updated. The law authorizing the user fee, enacted in 1986, has not kept up with the times. This Committee recently initiated an investigation of the Nuclear Regulatory Commission user fee. PHMSA's user fees (there is more than one) also need scrutiny and a legislative update.

As part of the appropriations process, the Department of Transportation recently advocated amending the statutory authority for one of these user fees. To their credit, the House and Senate Appropriations Committees refused to legislate on an

appropriations bill. The Senate Appropriations Committee also weighed in on another PHMSA user fee matter, related to the allocation of the Pipeline Safety Fund user fee. The committee's report on the Transportation/HUD appropriations bill¹ included the following statement:

Pipeline Safety User Fee Allocation.—The pipeline safety program is largely funded through user fees on natural gas transmission pipelines, jurisdictional hazardous liquid pipelines, and liquefied natural gas terminal operators. Recent authorizations have increased the responsibilities for PHMSA and the States with respect to the safety of our Nation's pipelines. Given this change in scope of the pipeline safety program, the Committee directs PHMSA to review the user fee collection process to determine if it should be modified to more equitably allocate the cost of the pipeline program across the industry segments covered by Federal and State oversight. PHMSA shall submit a report to both the House and Senate Committees on Appropriations within 60 days of enactment of this act, that summarizes the agency's statutory authority to revise the fee structure, its assessment of the current fee structure, and any recommendations for changes to the fee structure that should be considered by Congress as it considers reauthorization of PHMSA.

INGAA agrees, and urges that this be done in a comprehensive fashion. The existing Pipeline Safety Fund fee is not assessed on all regulated sectors of the natural gas industry, but rather only on gas transmission operators. This gives rise to an important question: If a large block of "users" are not paying the user fee, is it still a "user fee" under budget rules and precedent? The answer to this question has implications for both Congressional committee jurisdiction and whether the dollars raised must be sent to the Treasury rather than reserved to offset PHMSA's costs.

We respectfully suggest that the authorizing committees review the current state of this user fee, and amend the statute to make this a true user fee assessed on all regulated sectors of the natural gas industry.

Conclusion

INGAA urges Congress to pass a pipeline safety reauthorization bill soon. Industry continues to make significant system-wide investments in advancing its goal of zero pipeline incidents. Congress should provide additional clarity to guide PHMSA on its comprehensive natural gas pipeline rule, and address duplicative and outdated provisions that do not contribute to enhancing public safety. Mr. Chairman, thank you for the opportunity to share our views. I would be happy to answer questions at the appropriate time.

¹ H.R. 2577, as amended; S.Rrpt. 114-75.

Mr. WHITFIELD. Well, thanks very much, Mr. Santa.

And our next witness is Mr. Ron Bradley, who is Vice President of Gas Operations for PECO Energy, and I think you are testifying on behalf of the American Gas Association.

STATEMENT OF RON BRADLEY

Mr. BRADLEY. Good afternoon, Chairman Whitfield, and members of the committee. My name is Ron Bradley, and I serve as the Vice President of Gas Operations at PECO, which provides reliable electric and natural gas customer—or service to more than 1.6 million electric customers, and more than 500,000 gas customers in southeastern Pennsylvania. I appreciate the opportunity to testify on behalf of the natural gas distribution industry.

PECO is a part of the Exelon family of companies. Exelon is the Nation's largest competitive energy provider. In addition to Exelon's generation, power, and unregulated businesses, our sister utilities include BGE in Baltimore, and ComEd in Chicago. Combined, we serve 6.6 million electric customers in Illinois, Maryland, and Pennsylvania, and more than 1.1 million natural gas customers in Maryland and Pennsylvania.

Today, I am testifying on behalf of the American Gas Association which represents more than 200 local distribution companies, also known as LDCs, which serve more than 71 million customers.

AGA's member companies operate 2.4 million miles of underground pipeline, safely delivering clean, affordable natural gas to residential, commercial, and industrial customers. LDCs provide the last critical link in the energy delivery chain, connecting interstate pipelines directly to homes and businesses. Our focus today is ensuring that we keep the gas flowing safely and reliably.

As part of an agreement with the Federal Government, most states assume primary responsibility for safety regulation of LDCs, as well as intrastate transmission pipelines. Some governments are encouraged to adopt minimum standards promulgated by the U.S. Department of Transportation. Many states choose to adopt standards that are more stringent than federal requirements. Additionally, our companies are in close contact with state pipeline safety inspectors, working in a collaborative manner that provides for far more inspections than required under federal law.

LDCs do not operate strictly in a compliance culture, but rather in a culture of proactive collaborative engagement. Each company employs trained safety professionals, provides ongoing employee evaluations and safety training, conducts rigorous system inspection, testing, maintenance, repair, and replacement programs, and educates the public on natural gas safety. AGA's commitment to enhancing safety adopted in 2011 provides a summary statement of these commitments. The Association has also developed numerous pipeline safety initiatives focused on raising the bar on safety, including peer-to-peer reviews and best practice forums that share best practices, and lessons learned throughout the industry.

Each year, LDCs spend approximately \$19 billion on safety; one half of that on our voluntary activities. This number continues to escalate as work commences on newly approved accelerated pipeline replacement programs.

The Pipe Inspection, Protection, Enforcement, and Safety Act of 2006, and the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, both outline several programs that help continue to improve the safety of the industry. AGA member companies have implemented aspects of these programs either through DOT regulation or voluntarily. However, many of these programs are in their infancy in terms of implementation, and we encourage Congress to allow these programs to develop and mature. In the case of the unanimously passed 2011 Act, we dealt with a number of key issues. Several of the required regulations have yet to be finalized. Progress is being made, however, and thus, we believe it would be premature to make changes to the law at this time. For instance, the industry is experiencing significant uncertainty regarding PHMSA implementation of maximum allowable operating pressure, and the integrity verification programs. We are prepared to act, but regulatory certainty provided by implementation of regulation would be beneficial to the industry and customers alike. Layering new laws and regulations onto companies before existing regulations have been finalized and given a reasonable amount of time to work is likely to create uncertainty that undermines our shared safety goals. PHMSA has issued a number of significant guidance documents, released the results of congressionally mandated study on leak detection, and created a database to track progress in replacing cast iron.

With regard to replacement of cast iron, the quantity of these mains continues to steadily decline, making up less than 3 percent of total mileage. There are 29,358 miles of cast iron still in use, and the industry estimates it will cost \$83 billion to complete that.

We applaud the committee's focus on the common goal to enhance the safe delivery of this vital energy resource, and I am pleased to answer questions on these topics and other topics you may have.

[The prepared statement of Mr. Bradley follows:]

**Testimony of
Ron Bradley
Vice President, Gas Operations
PECO Energy, an Exelon Company
On Behalf of the American Gas Association**

**Before the
Subcommittee on Energy and Power**

“A Review of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011”

Tuesday, July 14, 2015

Good morning, Mr. Chairman and members of the Committee. I am pleased to appear before you today. Pipeline safety is a critically important issue, and I thank you for not only holding this Hearing, but for all the work that you and your colleagues have done over the years to help ensure that America has the safest, most reliable pipeline system in the world. My name is Ron Bradley and I am Vice President of Gas Operations at PECO Energy. With a history of more than 100 years of service to the Greater Philadelphia region, PECO has a long-standing commitment to a culture of excellence. Based in Philadelphia, PECO is an electric and natural gas utility subsidiary of Exelon Corporation, the nation's largest competitive energy provider. PECO is the largest electric and natural gas utility in Pennsylvania, serving approximately 1.6 million electric customers and more than 500,000 natural gas customers in southeastern Pennsylvania.

We are a company committed to our customers, our community and the environment. PECO operates under six core values, or guiding principles: Safety, Integrity, Diversity, Respect, Accountability, and Continuous Improvement. These values are part of our daily operations and our commitment to the region. Safety is first and foremost at PECO. We have programs to help ensure the safety of our employees, contractors, customers and the communities we serve. Among utilities, PECO's safety performance is ranked as one of the best in the nation, and the company has been widely recognized for our community service, economic development and operational and environmental efforts. PECO has been recognized as Pennsylvania's safest utility by the state Department of Labor & Industry and has also received awards from the Energy Association of Pennsylvania and the American Gas Association.

I am testifying today on behalf of the American Gas Association (AGA). AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 71 million residential, commercial and industrial natural gas customers in the U.S., of which 94 percent - over 68 million customers - receive their gas from AGA members. Natural gas pipelines, which transport approximately one-fourth of the energy consumed in the United States, are an essential part of the nation's infrastructure. Indeed, natural gas is delivered to customers through a safe, 2.4-million mile underground pipeline system. This includes 2.1 million miles of local utility distribution pipelines and 300,000 miles of transmission pipelines that stretch across the country, providing service to more than 177 million Americans. The recent development of natural gas shale resources has resulted in abundant supplies of domestic natural gas, which has meant affordable and stable natural gas prices for our customers. America needs clean and abundant energy and America's natural gas provides just that. This has made the safe, reliable and cost-effective operation of the natural gas pipeline infrastructure even more critically important, as it is our job to deliver the natural gas to the customer. Through an effective partnership between America's natural gas utilities, state regulators, Congressional and state legislators, governors and other key

stakeholders working together to advance important safety policies, we have been able to both enhance system integrity and support increased access to natural gas service for homes and businesses.¹

DISTRIBUTION PIPELINES

Distribution pipelines are operated by natural gas utilities, sometimes called “local distribution companies” or LDCs. The gas utility’s distribution pipes are the last, critical link in the natural gas delivery chain. Gas distribution utilities bring natural gas service to their customers. To most customers, their local utilities are the “face of the industry.” Our customers see our name on their bills, our trucks in the streets and our company sponsorship of many civic initiatives. We live in the communities we serve and interact daily with our customers and with the state regulators who oversee pipeline safety. We take very seriously the responsibility of continuing to deliver natural gas to our communities safely, reliably, responsibly and affordably.

AGA and its members support the development of reasonable regulations to implement new federal legislation as well as the recommendations of the National Transportation Safety Board, the U.S. Department of Transportation (DOT) Inspector General, Government Accountability Office, National Association of Pipeline Safety Representatives (NAPSR) and the National Association of Regulatory Utility Commissioners (NARUC). Within this testimony are actions that are being, or will be, implemented by AGA or individual operators to help ensure the safe and reliable operation of the nation’s 2.4 million miles of natural gas pipelines. In implementing these actions, AGA and its individual operators recognize the significant role that their state regulators or governing body will play in supporting and funding these actions to fulfill our promise to our customers.²

REGULATORY AUTHORITY

As part of an agreement with the federal government, in most states, state pipeline safety authorities have primary responsibility to regulate natural gas utilities as well as intrastate transmission pipeline companies. Under these agreements, state governments adopt as a minimum the federal safety standards promulgated by the U.S. Department of Transportation.

The states may also choose to adopt standards that are more stringent than the federal regulations, and many have done so. LDCs are in close contact with state pipeline safety inspectors. As a result of these interactions, distribution operator facilities are subject to more frequent and closer inspections than required by the federal pipeline safety regulations.³

COMMITMENT TO SAFETY

Our commitment to safety extends beyond government oversight. Indeed, safety is our top priority – a source of pride and a matter of corporate policy for every company. These policies are carried out in specific and unique ways. Each company employs safety professionals; provides on-going employee safety training; conducts rigorous system inspections, testing, and maintenance, repair and replacement programs; distributes public safety information; and complies with a wide range of federal and state safety regulations and requirements. Individual company efforts are supplemented by collaborative activities in the safety and technical committees of regional and national trade organizations. Examples of these groups include AGA, the American Public Gas Association and the Interstate Natural Gas Association of America.

On October 26, 2011, AGA released its Commitment to Enhancing Safety, which outlines just a few of the industry’s commitments above and beyond regulations. This is just one example of how the industry is leading on safety by demonstrating the highest level of commitment to constant improvement and by upholding pipeline

¹ See Attachment 1: “*Natural Gas Pipelines across the U.S.*”

² See Attachment 2: “*Natural Gas Delivery System*”

³ See Attachment 3: “*Regulators and Stakeholders*”

safety as our number one priority.⁴

Outside of regulation and legislation, AGA members are striving to improve pipeline safety:

- Through AGA's Safety Culture Statement, each AGA member has committed to promoting positive safety cultures among their employees throughout the natural gas distribution industry. All employees as well as contractors and suppliers providing services to AGA members, are expected to place the highest priority on employee, customer, public and pipeline safety.

- In AGA's Commitment to Enhancing Safety, AGA and its member companies state their dedication to the continued enhancement of pipeline safety through their commitment to proactively collaborate with public officials, emergency responders, excavators, consumers, safety advocates and members of the public to continue to improve the industry's longstanding record of providing natural gas safely and effectively to 177 million Americans.

- AGA has also developed numerous pipeline safety initiatives focused on raising the bar throughout the natural gas distribution industry. Two such programs are AGA's Peer Review Program and AGA's Gas Utility Operations Best Practices Program. Both allow subject matter experts from AGA member companies to help improve industry practices through reviewing and sharing individual company policies, procedures and practices.

Natural gas utilities spend an estimated \$19 billion a year in safety-related activities. Approximately half of this money is spent in complying with federal and state regulations. The other half is spent as part of our companies' voluntary commitment to help ensure that our systems are safe and that the communities we serve are protected. Moreover, we are continually refining our safety practices to help improve overall safety and reliability.

REVIEW OF LEGISLATION AND REGULATION

From a regulatory perspective, the past fifteen years have easily included far more significant pipeline safety mandates and rulemakings than any other decade since the creation of the federal pipeline safety code in 1971. I want to assure the committee that the natural gas distribution industry has worked vigorously to implement those provisions that are related to our sector. It takes considerable time for complicated rules to be promulgated, vetted, finalized and then implemented. We are constantly working on ways to better manage the system and improve safety.

The Pipeline Inspection, Protection, Enforcement and Safety Act of 2006 and the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011 each outlined significant industry changing pipeline safety programs. While AGA members have implemented aspects of these programs either through DOT regulation or voluntarily, it is important to remember that many of the programs are still in their infancy. AGA encourages Congress to allow these programs to develop and mature in order to realize their full impact. Over the years we have found that it is best to fully implement new safety programs and regulations, so as to allow for the gathering of conclusive data that aids in determining what, if any, changes need to be made. In the case of the unanimously passed Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011, many of the required regulations have yet to be completed, and thus we believe it would be premature to make changes to the law at this time. The specifics of The Act included significant substantive changes to the federal pipeline safety laws, such as changes to incident notification timelines, testing of certain gas transmission lines, and the requirements for valves, gathering lines, leak detection, integrity management, and class location. PHMSA is still working on a number of significant final rules that will substantially change the federal gas pipeline safety regulations. These include expansion of transmission integrity management, additional pressure testing requirements,

⁴ See Attachment 4: "AGA's Commitment to Enhancing Safety"

excavation damage prevention, rupture detection and valves, excess flow valves beyond single family homes, and plastic pipe regulations. We know that PHMSA is diligently working on these regulations and look forward to the certainty that the final rules will bring. PHMSA has issued a number of significant guidance documents, released the results of a congressionally-mandated study on leak detection, and created an online database to track progress in replacing cast iron and bare steel pipelines.

We believe progress is being made to fully address all Congressional mandates, and would respectively urge that we stay the course in working on those provisions and not begin layering on additional responsibilities that will lead to less regulatory certainty, or worse yet lead to a detour from work already commenced. Companies work day in and day out to make sure they continue to improve the safety of their systems, and it is critical that progress on regulations keep that pace to help ensure that these safety improvements are not negated. The work that PHMSA has completed to date, and the important initiatives taken by industry on its own, combined with the significant actions taken by NAPS, NARUC, individual public utility commissions and state legislatures around the country have produced significant improvement in pipeline safety over the last several years. Natural gas distribution companies are eager to move forward with other aspects of the 2011 Act, but they and their state commissions are hesitant. If system operators choose to follow the legislation as written, those actions may be nullified by future DOT regulations that do not follow the specifics in the legislation and thus require further action. Those further actions would be paid for by the customers of the natural gas distribution company and could create significant disruption to the public. AGA members desire a path forward with certainty rather than with uncertainty, duplicative actions, or additional cost burdens on their customers.

REVIEW OF KEY PROVISIONS OF THE PIPELINE SAFETY, REGULATORY CERTAINTY AND JOB CREATION ACT OF 2011 IMPACTING THE NATURAL GAS DISTRIBUTION SECTOR:

PIPE DAMAGE PREVENTION

Excavation damage represents the single greatest threat to distribution system safety, reliability and integrity. A number of initiatives have helped to prevent excavation damage and resulting incidents. These include a three digit number, "811," for excavators to call before they dig, a nationwide education program promoting 811, "best practices" to reduce excavation damage and regional "Common Ground Alliances" that are focused on preventing excavation damage. Additionally, AGA and other partners established April as National Safe Digging Month, encouraging individuals to dial 811 before embarking on any digging or excavation project. Since the Call 811 campaign was launched, there has been approximately a 40 percent reduction in excavation-related incidents. A significant cause for this reduction is the work done by the pipeline industry in promoting the use of 811. Regulators, natural gas operators, and other stakeholders are continually working to improve excavation damage prevention programs. This concerted effort, combined with the effort that states are undertaking to create robust, and effective, state damage prevention programs based on the elements contained in the 2006 PIPES Act, is having a positive impact. But as always, more can be done – and we will continue to remain vigilant in collaborating with other stakeholders and the public to help ensure the safety of our pipeline systems.

DISTRIBUTION INTEGRITY MANAGEMENT

The 2006 PIPES Act required the U.S. DOT to establish a regulation prescribing standards for integrity management programs for distribution pipeline operators. The DOT published the final rule establishing natural gas distribution integrity management program (DIMP) requirements on December 4, 2009. The effective date of the rule was February 12, 2010. Operators were given until August 2, 2011 to write and implement their program.

The DIMP final rule is a comprehensive regulation that provides an added layer of protection to the already-strong pipeline safety programs implemented by local distribution companies. It represents the most significant rulemaking affecting natural gas distribution operators since the inception of the federal pipeline safety code in 1971. It impacted more than 1,300 operators, 2.1 million miles of pipe, and 70 million customers. The final rule effectively took into consideration the wide differences that exist between natural gas distribution operators. It

also allows operators to develop a DIMP plan that is appropriate for the operating characteristics of their distribution delivery system and the customers that they serve.

PUBLIC EDUCATION/AWARENESS

AGA appreciates the DOT's work with the public, emergency responders, and industry to improve the public's awareness of pipelines and natural gas safety. The public awareness initiative has been successful and has effectively improved the public and emergency responders' awareness of the pipeline infrastructure and appropriate actions to be taken in the event of a pipeline emergency. We are eager to work with DOT to identify performance metrics that are critical in assessing program effectiveness. Industry is working to ensure that 911 operators are identified as an important stakeholder audience and receive all needed pipeline awareness information. AGA and the industry look forward to continuing to work with all regulatory agencies to help improve the methods utilized to educate the public regarding pipeline awareness.

CAST IRON PIPELINES

Natural gas utilities continue to be ever vigilant and committed to systematically upgrading this infrastructure based on enhanced risk-based integrity management programs. Indeed, there is a growing effort underway to accelerate the replacement of pipelines that may no longer be fit for service. This work is facilitated by regulatory and legislative policies that establish innovative rate mechanisms which allow for accelerated replacement and modernization of natural gas pipelines.

The quantity of cast iron main continues to steadily decline. Overall cast iron makes up less than three percent of the distribution mileage and that number is decreasing annually. Today, PHMSA reports that there are 29,358 miles of cast iron pipelines in use. The approximate cost of removing these pipelines is nearly \$83 billion.⁵

The specific costs associated with replacement vary depending on an individual utility's regulatory structure and state. All utilities have an infrastructure replacement program and seek to remove pipelines no longer fit for service as rapidly as they are able and allowed through their regulatory construct. Moreover, today 39 states and the District of Columbia now have a specific rate mechanism that facilitates accelerated replacement of pipelines no longer fit for service.⁶

NARUC has always considered pipeline safety a leading priority and has raised the bar by prioritizing the issue of accelerating replacement of pipelines no longer fit for service. We commend NARUC for having passed a resolution at its 2013 summer meeting calling on commissions to explore, examine, and consider adopting alternative rate recovery mechanisms as necessary to accelerate the modernization, replacement and expansion of the nation's natural gas pipeline systems.⁷

MAOP

There is significant uncertainty in the pipeline industry surrounding the method by which PHMSA will implement provisions in the 2011 Act pertaining to Maximum Allowable Operating Pressure (MAOP) and the Integrity Verification Process (IVP). AGA members have conducted a verification of records as proposed in the legislation, for class 3 and class 4 locations and class 1 and class 2 high consequence areas. However because the MAOP and IVP regulations have not yet been implemented, operators are uncertain if their actions to address missing or incomplete records would be nullified by future DOT Regulations.

INCIDENT NOTIFICATION

AGA members are committed to finding new and innovative ways to inform and engage stakeholders, including emergency responders, public officials, excavators, consumers and safety advocates and members of the public living in the vicinity of pipelines. AGA and INGAA sponsored a workshop that was presented by the National

⁵ See Attachment 5: "Total Cast Iron Main"

⁶ See Attachment 6: "States with Accelerated Infrastructure Replacement Programs"

⁷ See Attachment 7: "NARUC Resolution"

Association of State Fire Marshals. The workshop had approximately 60 emergency responders, PHMSA staff and 40 operator personnel in attendance. There are also a number of efforts at the state and local level to engage emergency responders, government officials and the public in pipeline safety efforts.

DATA COLLECTION AND INFORMATION SHARING

Collecting accurate data and data analysis are integral to determining areas for potential pipeline safety improvement. AGA and PHMSA co-chair a data quality and analysis team made up of representatives from government, industry and the public, similar to the PHMSA technical advisory committees. The team analyzes the data that PHMSA collects and determine opportunities to improve pipeline safety based on the analysis. The team is also identifying gaps in the data that are collected by PHMSA and others, ways to improve the collected data, and is working on consistent messages based on the pipeline incident data.

AGA has 16 technical committees and an operations managing committee focusing on a wide range of operations and safety issues. The technical committees develop and share information, including those issues raised by PHMSA, the National Transportation Safety Board, and other pipeline safety stakeholders. In addition, AGA has a Gas Utilities Operations Best Practices Program focused on identifying superior performing companies and innovative work practices that can be shared with others to improve operations and safety. AGA is also the Secretariat for the National Fuel Gas codes, the Gas Piping Technology Committee, and manages the Plastic Pipeline Database which includes over 45,000 records of plastic material and component failures that have been voluntarily submitted by the industry.

RESEARCH AND DEVELOPMENT

More industry research is necessary to improve in-line inspection tool quality and capabilities, operator use of tool data, direct assessment tools, non-destructive testing and leak detection. Many pipeline companies have direct memberships in research consortiums and contribute towards this type of research. These research consortiums include the Pipeline Research Council International (PRCI), NYSEARCH, Operations Technology Development (OTD), Utilization Technology Development (UTD) and Sustaining Membership Program (SMP). In the last five years, hazardous liquid and gas pipeline operators have contributed more than \$115 million to research and development. However, R&D cannot be successful without cooperative planning between industry and government. As noted above, AGA is committed to improving the transparent collaborative relationship with PHMSA that has historically enhanced pipeline safety R&D.

SUMMARY

The natural gas utility industry has a strong safety record. Recognizing the critical role that natural gas can and should play in meeting our nation's energy needs, we are committed to working with all stakeholders to consistently make improvements to the safety and reliability of our systems. To that end, we applaud this committee's focus on the common goal: to enhance the safe delivery of this vital energy resource.

Recent pipeline safety reauthorizations contained significant changes to pipeline safety programs. Many of these changes are not yet in federal regulation and others are in their infancy. PHMSA is working on a number of significant rules that will substantially change the federal gas pipeline safety regulations and the industry looks forward to the certainty that the final rules will bring.

Natural gas distribution companies are eager to take action on the aspects of the 2011 Act that DOT has not finalized, but their actions may be nullified if DOT's final regulations that do not follow the specifics in the legislation. Operations would then need to take additional actions or repeat their work, adding unnecessary cost to customers and a disruption to the public. AGA members desire a path forward with certainty rather than with uncertainty, duplicative actions, or additional cost burdens on their customers.

We would urge that we stay the course in developing comprehensive, risk based rules to comply with the legislation and provide the regulatory certainty that is essential to ensuring a safe and reliable natural gas

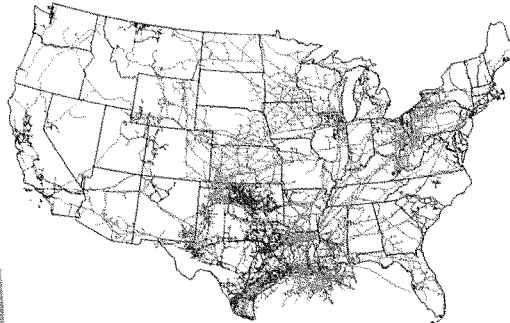
distribution system. Many of these rules have just been implemented and need time to work before assessing whether additional changes need to be made to enhance safety.

Natural gas is a key to our energy future and America's natural gas utilities are upgrading our delivery system to meet this growing demand. There is a tremendous opportunity for consumers and our nation as a whole through greater use of natural gas, and we see a future where natural gas is the foundation fuel that heats our homes, runs our vehicles, and supports other forms of renewable energy. We are building and continually improving our infrastructure to deliver on this promise.

Attachment 1: Natural Gas Pipelines across the U.S.

Safely
transported
**Across the
Country**

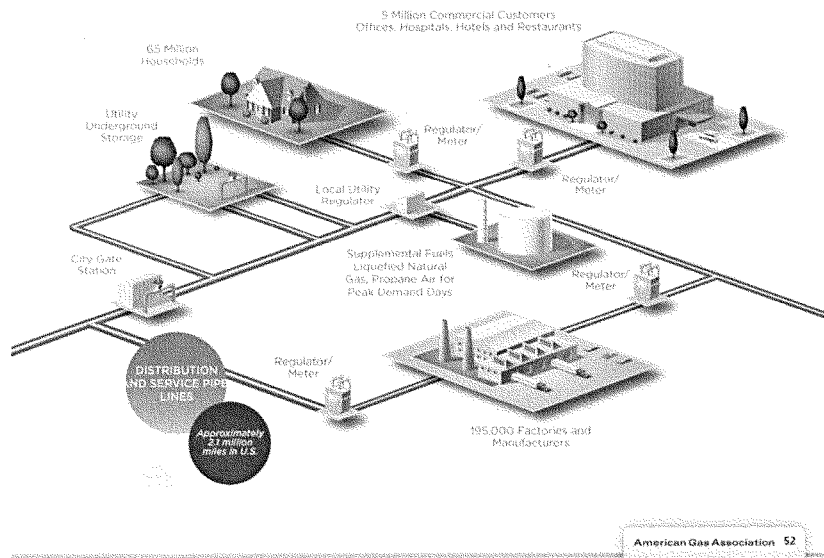
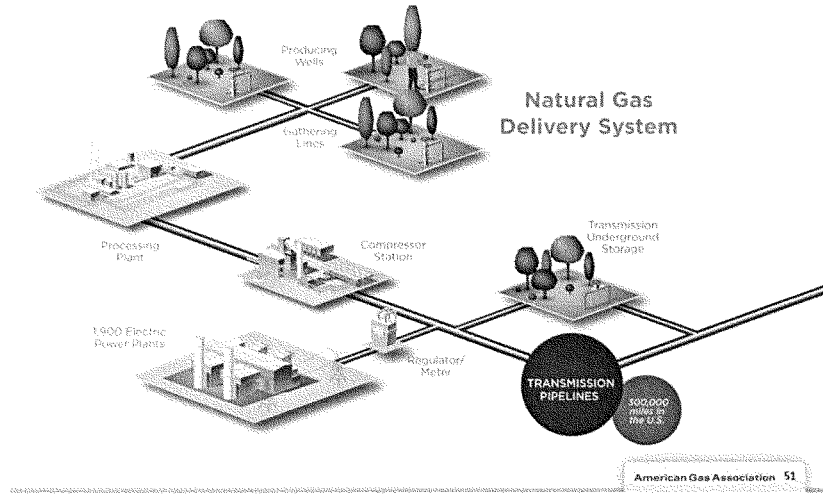
- Natural gas pipelines are an essential part of the nation's infrastructure.
- Natural gas utilities spend more than \$19 billion annually to help enhance the safety of natural gas distribution and transmission systems.



● Interstate Pipelines
● Intrastate Pipelines

Attachment 2: Natural Gas Delivery System

Natural Gas Getting It to Homes, Businesses and to Work for America



Attachment 3: Regulators and Stakeholders

Many Regulators and Stakeholders



Attachment 4: AGA's Commitment to Enhancing Safety**AGA's Commitment to Enhancing Safety**

AGA and its members are dedicated to the continued enhancement of pipeline safety. As such, we are committed to proactively collaborating with public officials, emergency responders, excavators, consumers, safety advocates and members of the public to continue to improve the industry's longstanding record of providing natural gas service safely and effectively to 177 million Americans. AGA and its members support the development of reasonable regulations to implement new federal legislation as well as the National Transportation Safety Board safety recommendations.

Below are voluntary actions that are being addressed by AGA or individual operators to help ensure the safe and reliable operation of the nation's 2.4 million miles of pipeline which span all 50 states representing diverse regions and operating conditions. In addressing these actions, AGA and its individual operators recognize the significant role that their state regulators or governing body will play in supporting and funding these actions.

It is the consensus of AGA members that the actions listed below enhance safety and gas utility operations when implemented as an integral part of each operator's system specific safety actions. However, both the need to implement and the timing of any implementation of these actions will vary with each operator. Each operator serves a unique and defined geographic area and their system infrastructures vary widely based on a multitude of factors, including facility condition, past engineering practices and materials. Each operator will need to evaluate the actions in light of system variables, the operator's independent integrity assessment, risk analysis and mitigation strategy and what has been deemed reasonable and prudent by their state regulators. It is recognized that not all of these recommendations will be applicable to all operators due to the unique set of circumstances that are attendant to their specific systems.

Building Pipelines for Safety**Construction**

- Expand requirements of the Operator Qualification (OQ) rule to include new construction of distribution and transmission pipelines.
- Review established oversight procedures associated with pipeline construction to ensure adequacy and confirm that operator construction practices and procedures are followed.

Emergency Shutoff Valves

- Support the use of a risk based approach to the installation of automatic and/or remote control sectionalizing block valves where economically, technically and operationally feasible on transmission lines that are being newly constructed or entirely replaced. Develop guidelines for consideration of the use of automatic and/or remote control sectionalizing block valves on transmission lines that are already in service. Work collaboratively with appropriate regulatory agencies and policy makers to develop these criteria.
- Expand the use of excess flow valves to new and fully replaced branch services, small multi-family facilities, and small commercial facilities where economically, technically and operationally feasible.

Operating Pipelines Safety**Integrity Management**

- Continue to advance integrity management programs and principles to mitigate system specific risks. This includes operational activities as well as the repair, replacement or rehabilitation of pipelines and associated facilities where it will most improve safety and reliability.
- Collaborate with stakeholders to develop and promote effective cost-recovery mechanisms to support pipeline assessment, repair, rehabilitation, and replacement programs.
- Develop industry guidelines for data management to advance data quality and knowledge related to pipeline integrity.
- Support development of processes and guidelines that enable the tracking and traceability of new pipeline components.

Excavation Damage Prevention

- Support strong enforcement of the 811 – Call Before You Dig program through state damage prevention laws.
- Improve the level of engagement between the operator and excavators working in the immediate vicinity of the operator's pipelines.

Enhancing Pipeline Safety**Safety Knowledge Sharing**

- Review programs currently utilized for the sharing of safety information. Identify and implement models that will enhance safety knowledge exchange among operators, contractors, government and the public.

Stakeholder Engagement and Emergency Response

- Evaluate methods to more effectively communicate with public officials, excavators, consumers, safety advocates and members of the public about the presence of pipelines. Implement tested and proven communication methods to enhance those communications.
- Partner with emergency responders to share appropriate information and improve emergency response coordination.

Pipeline Planning Engagement

- Work with a coalition of Pipelines and Informed Planning Alliance (PIPA) Guidance stakeholders to increase awareness of risk based land use options and adopt existing PIPA recommended best practices.

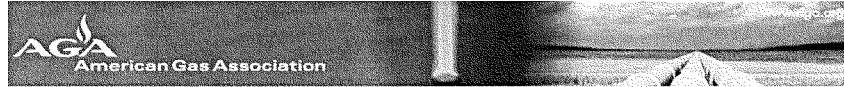
Advancing Technology Development

- Increase investment, continue participation, and support research, development and deployment of technologies to improve safety. Evaluate and appropriately implement new technological advances.

Gas Utility Industry Actions To Be Implemented		Target Dates *
Confirm the established MAOP of transmission pipelines		On an aggregate basis of AGA member companies, complete > 50% of class 3 & 4 locations + class 1&2 HCAs: 7/3/12 Remaining class 3&4 + 1&2 HCAs, based on PHMSA guidance: 7/3/13 Remaining class 1&2 by 7/3/15
Note: Confirmation of established MAOP utilizes the guidance document developed by AGA, "Industry Guidance on Records Review for Re-affirming Transmission Pipeline MAOPs," October 2011.		
Review and revise as necessary established construction procedures to provide for appropriate (risk-based) oversight of contractor installed pipeline facilities.		Trans: 12/31/12 Dist: 12/31/13
Under DIMP, evaluate risk associated with trenchless pipeline techniques and implement initiatives to mitigate risks		12/31/12
Under DIMP, identify distribution assets where increased leak surveys may be appropriate		12/31/12
Integrate applicable provisions of AGA's emergency response white paper and checklist into emergency response procedures		12/31/12
Extend Operator Qualification program to include tasks related to new main & service line construction		6/30/13
Expand EFV installation beyond single family residential homes		6/30/13
Incorporate an Incident Command System (ICS) type of structure into emergency response protocols		6/30/13
Extend transmission integrity management principles outside of HCAs using a risk-based approach		70% of population within PIR by 2020; 1&2 by 2030
Implement applicable portions of AGA's technical guidance documents: 1) Oversight of new construction tasks to ensure quality; 2) Ways to improve engagement between operators & excavators		Within 1 yr of AGA guidance
Begin risk-based evaluation on the use of ASVs, RCVs or equivalent technology on transmission block valves in HCAs		Within 6 months of Comptroller General study
Implement appropriate meter set protection practices identified through the Best Practices Program		Within 6 months of program results

* Target dates are based on an operator's evaluation of these actions in light of system variables, the operator's independent integrity assessment, risk analysis, and mitigation strategy. Target dates also assume state regulatory approval that action is prudent and reasonable and therefore recoverable in rates.

Gas Utility Industry Actions That Exceed 49 CFR Part 192
Incorporate systems and/or processes to reduce human error to enhance pipeline safety
Advocate programs to accelerate the risk-based repair, rehabilitation and replacement of pipelines
Support development of processes and guidelines that enable tracking and traceability of pipeline components
Encourage participation in One-Call by all underground operators and excavators
Influence and/or support state legislation to strengthen damage prevention programs
Use industry training facilities and evaluate opportunities to expand outreach and education programs to internal and external stakeholders
Support and enhance damage prevention programs through outreach, education, intervention and enforcement
Use a risk-based approach to improve excavation monitoring
Develop, support, enhance and promote CGA initiatives targeted at damage prevention, including data submission and 811
Support public awareness programs targeted at damage prevention
Continue AGA Safety Committee initiatives, such as sharing lessons learned through the Safety Information Resource Center, safety alerts through the AGA Safety Alert System, safety communications with customers and supporting AGA's Safety Culture Statement
Explore ways to educate, engage and provide appropriate information to stakeholders to increase pipeline public awareness
Conduct organizational response drills to improve emergency preparedness
Participate in state, regional and national multi-agency emergency response training exercises
Reach out to emergency responder community in order to enhance emergency response capabilities
Verify participation in a mutual assistance program, if appropriate; integrate into emergency response plans
Collaborate with stakeholders near existing transmission lines to increase awareness/adoption of appropriate PIPA recommended best practices
Promote benefits of R&D funding. Support R&D investment, pilot testing and technology implementation
Support technology development and deployment in critical applications
Collaborate on R&D



AGA's Commitment to Enhancing Safety: AGA Actions

ACTIONS COMPLETED

- ✓ Implement discussion groups to address safety issues including discussion groups for employee technical training, material supply chain issues, DIMP implementation, public awareness, work management and GPS/GIS
- ✓ Participate in 2012 DOT Automatic Shut-off Valve and Remote Control Valve Workshop
- ✓ Develop, with INGAA and API, a public document to explain ratemaking mechanisms used for pipeline infrastructure
- ✓ Create a Safety Information Resources Center for the sharing of safety information
- ✓ Hold regional operations executives' roundtables to discuss safety initiatives
- ✓ Sponsor workshop with INGAA and National Association of State Fire Marshals (NASFM) on emergency response
- ✓ Develop a technical note on industry considerations for emergency response plans
- ✓ Develop Emergency Response Resource center with a streamlined mutual assistance program
- ✓ Develop a task group comprised of AGA staff and members that will work closely with Pipelines and Informed Planning Alliance (PIPA) to ensure AGA member concerns are addressed in joint PIPA initiatives
- ✓ Work with INGAA, research consortiums and other pipeline trade associations to provide the NTSB with a compilation of the progress that has been made in advancing in-line inspection technology
- ✓ Host a roundtable focused on operator experience and lessons learned: 2012 Operations Conference
- ✓ Work with INGAA, API, AOPL, Canadian Gas Association and Canadian Energy Pipeline Association on a comprehensive safety management study that explores initiatives currently utilized by other sectors and the pipeline industry.

ONGOING ACTIONS

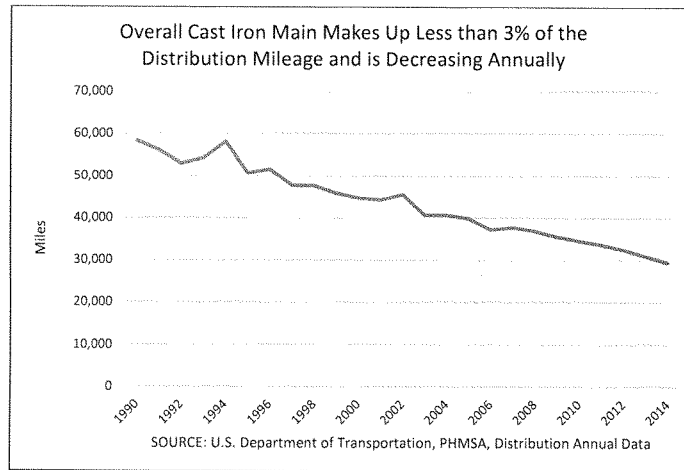
- Promote the use of innovative rate mechanisms for faster repair, rehabilitation or replacement.
- Maintain a clearinghouse on effective cost-recovery mechanisms that states have used to fund infrastructure repair, replacement and rehabilitation projects.
- Support legislation that strengthens enforcement of damage prevention programs and 811
- Support the Common Ground Alliance, use of 811 and other programs that address excavation damage
- Continue the work of the AGA Best Practices Programs to identify superior performing companies and innovative work practices that can be shared with others to improve operations and safety.
- Continue the Plastic Pipe Database Committee's work to collect and analyze plastic material failures
- Promote the AGA Safety Culture Statement and a positive safety culture throughout the natural gas industry
- Conduct workshops, teleconferences and other events to share information including pipeline safety reauthorization, DIMP/TIMP, fitness for service, records, in-line inspection, emergency response, and other key safety initiatives
- Hold an annual executive leadership safety summit.
- Recognize statistical top safety performers, promote safety performance and encourage knowledge sharing through AGA Safety Awards
- Support PHMSA and NAPSRS workshops and other events
- Search for new and innovative ways to inform, engage and provide appropriate information to stakeholders, including emergency responders, public officials, excavators, consumers and safety advocates, and members of the public living in the vicinity of pipelines
- Participate in the Pipeline Safety Trust's annual conference to provide information on distribution and intrastate transmission pipelines, AGA and industry initiatives, and receive input
- Work with PHMSA to establish time limits for telephonic or electronic notice of reportable incidents to the National Response Center after the time of confirmed discovery by operator that an incident meets PHMSA incident reporting requirements
- Build an active coalition of AGA member representatives to work with PHMSA and other stakeholders to implement PIPA recommended practices pertaining to encroachment around existing transmission pipelines
- Advocate to state commissioners the inclusion of research funding in rate cases in an effort to increase overall funding for R&D
- Work with PHMSA and other stakeholders on opportunities to increase R&D funding and deployment of technologies
- Advocate acceptance of technologies that can improve safety

AGA's Commitment to Enhancing Safety: AGA Actions Continued**ACTIONS WITH TARGET DATES**

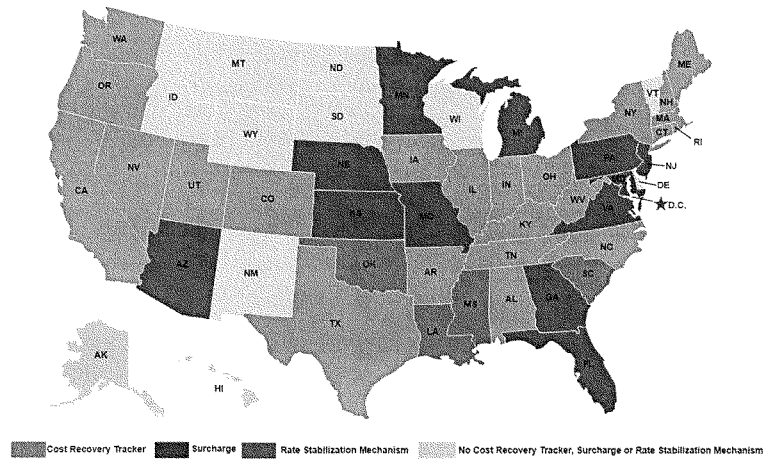
- Develop guidance to determine a distribution or transmission pipeline's fitness for service and MAOP, and the critical records needed for that determination. (5/30/12)
- Create a Safety Alert Notification System that will allow AGA or its members to quickly notify other AGA members of safety issues that require immediate attention. (5/30/12)
- Develop a more comprehensive technical paper that presents benefits and disadvantages of the installation of ASV/RVC block valves on new, fully replaced and existing transmission pipelines. (9/30/12)
- Create technical guidance for oversight of new construction tasks to ensure quality. (12/31/12) (Track progress of industry's implementation of guidelines and summarize results annually)
- Utilize DIMP to evaluate the risks associated with trenchless pipeline techniques and implement, where necessary, initiatives to prevent and mitigate those risks. (12/31/12)
- Based on the results of the safety management study, identify and begin to implement initiatives that will enhance the appropriate sharing of safety information. (12/31/12)
- Include meter protection in 2013 AGA Distribution Best Practices Program with results. (9/30/13)

ACTIONS – TARGET DATES NOT APPLICABLE

- Work with PHMSA and distribution operators on ways to address risk to meters from vehicular damage, natural and other outside forces.
- Engage PHMSA and NAPSIR in discussions on whether TIMP should be expanded beyond HCAs and the benefits and challenges of applying integrity management principles to additional areas.
- Highlight in DOT workshops, NAPSIR meetings and discussions with Government Accountability Office that: 1) Many AGA members are required to manage DIMP and TIMP programs that overlap. The effectiveness, inefficiencies and duplication of multiple integrity management programs must be explored. 2) Low-stress pipelines operating below 30% SMYS should be treated differently.
- Work with industry and regulators to evaluate how the grandfather clause can be modified to reduce and/or effectively eliminate its use for transmission pipelines.
- Work with other stakeholders to develop potential technological solutions that allow for tracking and traceability of new pipeline components (pipe, valves, fittings and other appurtenances attached to the pipe).
- Develop guidelines that provide for an improved level of engagement between operators and excavators.
- Work with other stakeholders to improve pipeline safety data collection and analysis, convert data into meaningful information, determine opportunities to improve safety based on data analysis, identify gaps in the data collected by PHMSA and others, and communicate consistent messages based on the data.
- Develop publications dedicated to improving safety and operations
- Pilot application of PIPA guidelines with select member utilities.

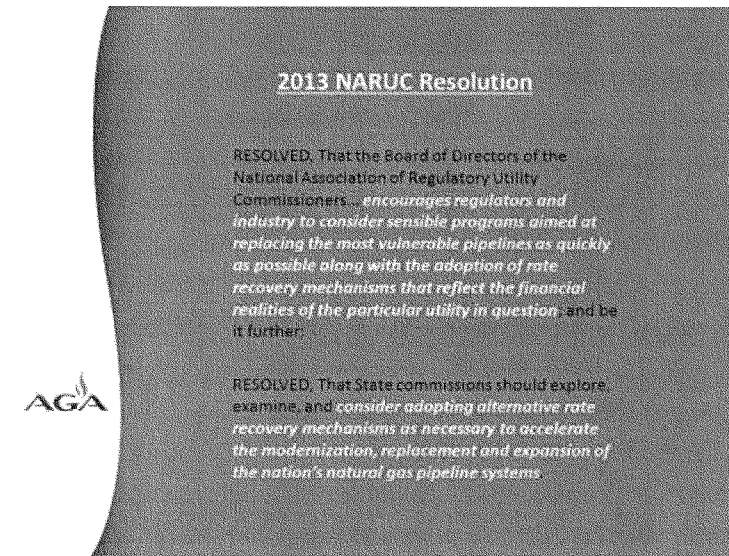
Attachment 5: Overall Cast Iron Main

Attachment 6: States with Accelerated Infrastructure Replacement Programs



*As of June 30, 2015

- *The overall trend is positive*
- *Nine states moved to adopt programs in 2013, alone*
- *NJ, MA, PA & DC adopted pipeline safety measures in 2014*
- *West Virginia recently passed legislation*
- *States address this issue differently*
- *The basis for these decisions is always just and reasonable rates for consumers*

Attachment 7: NARUC Resolution

Mr. WHITFIELD. Thank you, Mr. Bradley.

And our next witness is Mr. Andy Black, who is the President and CEO of the Association of Oil Pipe Lines, and he had many productive years here at the Energy and Commerce Committee, and welcome back, Mr. Black, and you are recognized for 5 minutes.

STATEMENT OF ANDREW BLACK

Mr. ANDREW BLACK. Thank you, Mr. Chairman, members. I am Andy Black, President and CEO of the Association of Oil Pipe Lines.

Mr. WHITFIELD. Is the microphone on?

Mr. ANDREW BLACK. Yes, sir. Can you hear me better? I am also testifying on behalf of API.

We represent transmission pipeline operators that deliver crude oil, refined products like gasoline, diesel fuel, and jet fuel, and natural gas liquids such as propane. Our U.S. pipelines extend 192,000 miles, safely delivering 14.9 billion barrels of crude oil and energy products a year.

Pipelines play a critical role in delivering energy to American workers and families. Americans use the energy in our pipelines delivered in their cars and trucks to work or driving on the job. Farmers use propane for rural heating and crop drying. American workers use raw materials like ethane for their good-paying manufacturing jobs.

Pipelines are an exceedingly safe way to deliver the energy America needs. The average barrel of crude oil or petroleum products reaches its destination safely, greater than 99.999 percent of the time. Since 1999, pipeline incidents impacting the public or environment are down 50 percent. Corrosion cost, pipeline incidents are down 76 percent thanks to the widespread use of smart inline inspection to detect corrosion in pipes. Pipeline incidents caused accidentally by third party damage are down 78 percent. But even with these improvements in pipeline safety over the last 15 years, we know today we need to keep improving pipeline safety further, and are committed to doing so.

Last year, liquid pipeline operators spent more than \$2.2 billion evaluating, inspecting, and maintaining their pipelines. The spending shows that we are expending a great amount of resources to make pipeline incidents even rarer.

I would like to share with you a number of the industry-wide efforts we have underway to improve pipeline safety. Two years ago, liquid pipeline operators launched the Pipeline Safety Excellence Initiative. It includes shared pipeline safety principles, such as the goal of zero incidents. Pipeline Safety Excellence also embodies the work of nearly a dozen industry-wide groups to improve pipeline operations and safety. We are funding research and development on new and improved ILI smart pig technologies, developing new best practices to detect and respond to potential cracking in pipes, improving leak detection program management, and ensuring pipeline construction quality management. Strategic initiatives reflect review of safety performance data and lessons learned from pipeline incidents to make safety improvements. What results of the recent California release are not yet available of the investigation.

We look forward to understanding the root causes of that incident, and addressing any recommendations for safety improvement industry-wide. Strategic initiatives also reflect lessons from safety investigators and address the recommendations of the NTSB and advisories from PHMSA. One of our most recent safety successes that PHMSA Executive Director Cummings mentioned is a new tool to manage comprehensively and holistically all of the different pipeline safety activities across the company. API recommended practice 1173. The NTSB recommended we develop this best practice for pipeline safety management system after the 2010 Marshall, Michigan, pipeline release.

We embraced NTSB's recommendation and worked together with PHMSA, state regulators, natural gas pipeline operators, and process safety experts over a stretch of 2 years to reach an agreement on this important advance in pipeline safety. Over that time, we consulted with safety experts within other industries successfully using safety management systems to improve safety in their sectors. Our members are now planning aggressive implementation of this pipeline safety management system recommended practice because of the opportunity we have to improve pipeline safety industry-wide.

Another success story is the work of our emergency response team. Local fire and police departments, especially volunteer departments in rural locations, told us they just didn't have the resources to obtain pipeline-specific emergency response training. We responded to this need by bringing pipeline training to them free of charge through an online course. This and other pipeline emergency response tools can be reached through the Web site, Pipelineemergencyresponse.com. For these efforts, I will proudly travel later this month to Nashville in the annual meeting of the National Association of State Fire Marshals to receive their Norm Mineta Excellence in Transportation Safety Award, presented this year to API and AOPL jointly for the work of our emergency response team. This award is given annually to an individual or team that has made a significant and lasting contribution to the safety of people, products, and materials in transit. Through this award, state fire marshals recognize individuals and teams that have encouraged transportation safety standards above what is required, and have worked to ensure the safety of emergency responders.

As you can see, there is much work underway to improve pipeline safety performance. Thank you for the opportunity to testify.

[The prepared statement of Mr. Andrew Black follows:]

**Summary of Testimony of Andrew J. Black
Association of Oil Pipe Lines, President & CEO
before the
U.S. House Committee on Energy & Commerce
Subcommittee on Energy & Power
July 14, 2015**

Liquids Pipelines Are Safe and Getting Safer

- Pipelines are among the safest ways to deliver the energy America needs
- The average barrel of crude oil or petroleum products reaches its destination safely by pipeline 99.999% of the time
- Since 1999, liquids pipeline incidents impacting the public or environment are down 50%
- Since 1999, corrosion caused pipeline incidents are down 76%
- Barrels released from liquids pipeline incidents PHMSA categorizes as significant are down approximately 50% over the last 20 years

Liquids Pipeline Operators Are Taking Action to Improve Pipeline Safety

- Liquids pipeline operators spent over \$2.2 billion last year evaluating, inspecting and performing maintenance on their pipelines
- In 2013, liquids pipeline operators launched the *Pipeline Safety Excellence*[™] initiative to improve industry-wide pipeline safety performance
- Pipeline operators through the *Pipeline Safety Excellence*[™] initiative adopted industry-wide pipeline safety values such as a goal of zero incidents, learning from experience and continuous improvement
- Numerous industry-wide groups, many shepherded by the American Petroleum Institute with whom we work closely on safety issues, are developing pipeline safety best practices and improvement tools in areas of leak detection, integrity management, operations, worker qualifications, control room management, public awareness and emergency response
- The liquids pipeline industry has increased its transparency by publishing annual industry-wide pipeline safety performance data showing where safety is improving and what challenges remain
- The liquids pipeline industry has an aggressive set of strategic goals and industry-wide initiatives to improve pipeline safety in areas of pipe inspection technology R&D, pipe cracking detection, diagnosis and response, comprehensive safety management systems, leak detection program management and emergency planning and response
- Examples of recent industry-wide pipeline safety improvement successes include:
 - Development, at the recommendation of the U.S. National Transportation Safety Board, of an industry-wide recommended practice API 1173 for Pipeline Safety Management Systems. This safety tool will allow pipeline operators to better manage the numerous pipeline safety efforts within their companies comprehensively and holistically
 - New pipeline specific emergency response tools, including a free, online pipeline emergency response training course for local first responders. These efforts earned AOPL and API this year's Norman Y. Mineta Excellence in Transportation Safety Award from the National Association of State Fire Marshals

Testimony of Andrew J. Black
Association of Oil Pipe Lines, President & CEO
before the
U.S. House Committee on Energy & Commerce
Subcommittee on Energy & Power
 July 14, 2015

Thank you. I am Andy Black, President and CEO of the Association of Oil Pipe Lines. We represent transmission pipeline operators who deliver crude oil, refined products like gasoline, diesel fuel and jet fuel, and natural gas liquids such as propane and ethane. Our U.S. pipelines extend 192 thousand miles, safely delivering 14.9 billion barrels of crude oil and energy products annually. Today, my testimony is also on behalf of the American Petroleum Institute (API), with whom we work closely on pipeline safety improvement efforts.

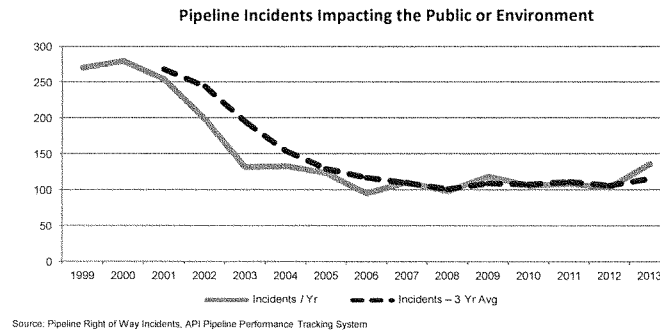
Pipelines play a critical role in delivering energy to American workers and families. Americans use the energy our pipelines deliver in their cars and trucks to commute to work or drive on the job. Farmers use propane for rural heating, crop drying, and livestock safety. American workers use raw materials like ethane for their good-paying manufacturing jobs.

Pipeline Incident Data Shows Improvements Over Time

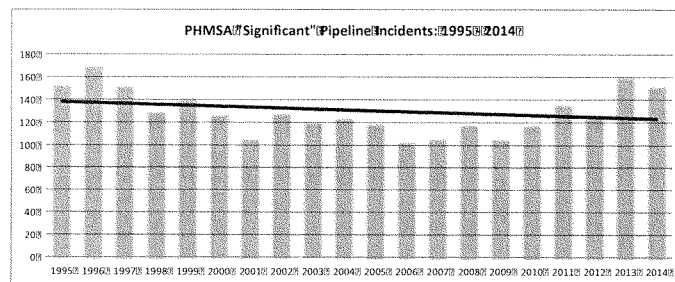
Pipelines are an exceedingly safe way to deliver the energy America needs. The average barrel of crude oil or petroleum products reaches its destination safely by pipeline more than 99.999% of the time. Since 1999, pipeline incidents impacting the public or environment are down 50%. Corrosion caused pipeline incidents are down 76%.

Pipeline operators review performance data carefully in an effort to identify areas for continued improvement. AOPL derives pipeline data from both PHMSA and the API Pipeline Performance Tracking System. Since 1999, API has tracked all liquids pipeline incidents over 5

gallons released to pipeline rights of way; releases that may impact the public or environmental spaces, in other words.



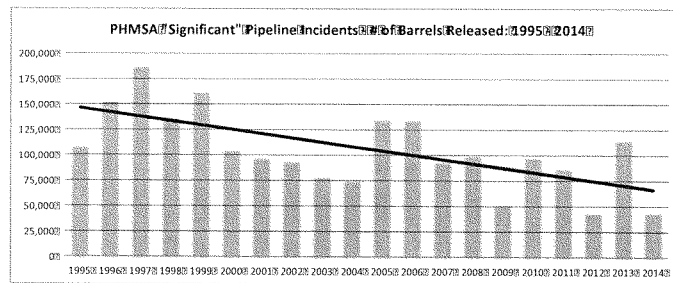
There are many different ways to measure pipeline safety performance. For example, the table below displays incidents PHMSA categorizes as “significant”. This includes liquids releases of 50 barrels or more or \$50,000 or more in cleanup costs in 1984 dollars, at all locations including within operator facilities, regardless of the effects upon people and the environment. The trend line for the last 20-year period is relatively flat or shows a slight decline.



Industry experts on data mining, operations and safety performance are currently assessing the nature of the increase in incidents the last few years. Our preliminary analysis shows that these are predominantly smaller releases contained wholly within

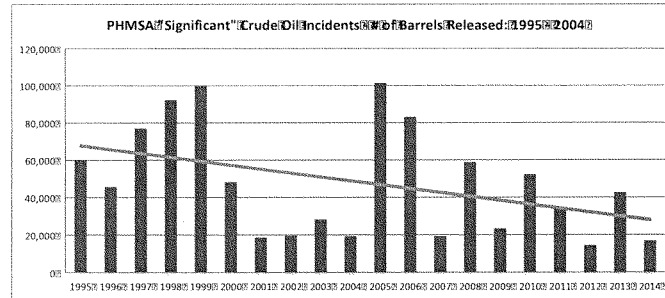
operator facilities, such as pump stations or tank farms. This is a dynamic we are currently analyzing for root causes and potential industry-wide action. Early reports show the causes are varied, and something that will take further in-depth analysis for a response plan.

Our main focus, and the focus of the majority of our safety improvement efforts is to protect the health and safety of our workers and the public as well as the environment from pipeline releases. Examining the number of barrels released from liquids pipelines using the PHMSA significant criteria shows a marked decrease in release amounts. Thus, while the number of pipeline releases is flat or ticks up or down over time, the amount of crude oil and petroleum products released from pipelines is down significantly over the last 20 years.



Source: PHMSA Incident Database, Significant Incidents, Hazardous Liquid Pipelines, Onshore, All Commodities

Review of just crude oil pipeline incidents reflects the same downward trend in crude oil barrels released since 1995. A trend analysis of PHMSA significant crude oil releases over the last 20 years reveals a 50% decrease in release amounts, but that is not enough.



Source: PHMSA Incident Database, Significant Incidents, Hazardous Liquid Pipelines, Onshore, Crude Oil Only

This time horizon allows policymakers to judge the effectiveness of pipeline safety programs put in place by Congress and technological advances over time. The late 1990s and early 2000s saw passage of pipeline safety laws and the implementation of the pipeline Integrity Management Program. The Integrity Management Program requires regular evaluation, inspection and maintenance of pipelines in high-consequence population and environmentally sensitive areas. PHMSA incident data shows the large decrease in barrels released since implementation of the Integrity Management Program.

Similarly, the last 20 years have seen the widespread use of smart pig, in-line inspection (ILI) technology. These devices travel through the pipelines scanning for defects in the metal or potential signs of denting or corrosion. Magnetic resonance technology detects metal loss in pipe. This technology has helped produce a 76% drop in corrosion caused incidents since 1999.

Even with these improvements in pipeline safety over the last 15 years, we know today we need to keep improving pipeline safety even further and are committed to doing so. While pipelines remain the safest method of transporting liquids, we must keep working toward our goal of zero incidents. Last year, liquids pipeline operators spent approximately \$2.2 billion evaluating, inspecting and maintaining their pipelines. This significant spending shows that

while pipeline incidents are relatively rare, we are expending a great amount of resources to make them even rarer.

Many Efforts Are Underway to Improve Pipeline Safety

Two years ago, liquids pipeline operators launched the *Pipeline Safety Excellence*[™] initiative. It includes shared pipeline safety principles, such as the goal of zero incidents. It also calls for increased transparency, reflected by the safety performance results discussed above.

Pipeline Safety Excellence[™] also reflects the work of nearly a dozen industry-wide groups, many shepherded by API, dedicated to improving pipeline operations and safety. They are made up of pipeline operator personnel volunteering their time and efforts in pursuit of industry-wide pipeline safety improvements:

- *Pipeline Safety Excellence Steering Committee* – pipeline operator executives guiding and ensuring pipeline safety performance achievement
- *Performance Excellence Team* - pipeline operator senior managers sharing safety improvement techniques and advancing data management, safety culture and damage prevention initiatives
- *Operations & Technical Group* – pipeline operations and engineering managers overseeing industry-wide pipeline recommended practices and coordination of research and development activities
- *Pipeline Integrity Work Group* – pipeline integrity managers pursuing advances in pipeline integrity management and developing industry-wide consensus recommended pipeline integrity practices

- *Cybernetics Group* – pipeline control systems managers sharing advances and lessons learned about leak detection technology and pipeline control systems
- *Public Awareness Group* – pipeline community outreach managers improving programs to raise public awareness of local pipelines and “call before you dig” programs
- *Operator Qualification Work Group* – pipeline managers ensuring operator qualification practices meet requirements and contribute to safe operations and operating culture
- *Environment, Health & Safety Group* – pipeline managers promoting environment, health and personal safety issues within pipeline operators
- *Leadership Teams* – pipeline managers and subject matter experts pursuing targeted initiatives to improve safety priorities, such as emergency response capabilities and research and development

Through these pipeline safety improvement groups, pipeline operators are developing industry-wide API recommended practices and standards on everything from pipe metal qualifications to proper welding techniques. API and AOPL members are promoting third-party damage prevention programs and funding research and development on new pipeline inspection technologies.

The *Pipeline Safety Excellence*[™] initiative also includes an annual Liquids Pipeline Safety Performance Strategic Plan of initiatives approved by the leadership of the pipeline industry for executive-level attention, support and resources. Strategic pipeline safety improvement efforts are organized into four goals: 1) improve inspection technologies, 2) enhance threat identification and response, 3) expand safety culture and management practices, and 4) boost response capabilities.

Our pipeline safety improvement strategic goals are at the heart of preventing and minimizing pipeline incidents. They involve improving the tools pipeline operators use, the skills of their employees, and the capabilities of their organizations. They address issues of technology, procedures, management and leadership.

Strategic Initiatives under the strategic plan reflect recommendations from safety investigators, lessons learned from pipeline incidents and review of safety performance data. In developing our Strategic Initiatives, we seek to address the recommendations of the National Transportation Safety Board and advisory bulletins from PHMSA. We also incorporate lessons learned from past releases, such as Marshall, Michigan and others, to make safety improvements in areas identified by those incidents. While results of the investigation of the recent Refugio, California release are not yet available, we look forward to understanding the root causes of that incident and addressing any recommendations for safety improvement. The specific Strategic Initiatives we have underway for 2015 include:

Goal 1: Improve Inspection Technology Capabilities

- 1.1 Improve In-Line Inspection (ILI) “Smart Pig” Technology Capabilities to Detect Pipeline Cracking

Goal 2: Enhance Threat Identification & Response

- 2.1 Implement New API Recommended Practice on Crack Detection Analysis and Response

- 2.2 Implement New Industry-Wide Guidance on Integrating Pipeline Threat Data
- 2.3 Develop Industry-wide Guidance on the Appropriate Uses of Hydrotesting to Ensure Pipeline Safety

Goal 3: Expand Safety Culture & Management Practices

- 3.1 Implement New API Recommended Practice on Pipeline Safety Management Systems
- 3.2 Foster Pipeline Safety Culture with an Industry-Wide Sharing, Learning and Improvement Program
- 3.3 Develop an Industry-Wide Construction Quality Management System

Goal 4: Boost Response Capabilities

- 4.1 Implement New API Recommended Practice for Pipeline Leak Detection Program Management
- 4.2 Deploy a Nation-wide Pipeline Emergency Response Training, Outreach and Standards Program

Work on each of these Strategic Initiatives is underway, continuing throughout 2015 and into 2016. Pipeline industry executive leaders recently approved the addition of a new 2016 Strategic Initiative to expand industry-wide guidance on river-crossing management, with a particular attention toward scouring. More information on all of the 2015 Strategic Initiatives can be found at: <http://www.aopl.org/wp-content/uploads/2015/03/2015-Annual-Perf-Report-Strategic-Plan-Mar-3-s.pdf>.

An example of one of our most recent safety successes is the development of API Recommended Practice 1173, Pipeline Safety Management Systems, a new tool to manage comprehensively and holistically all of the different pipeline safety activities across a company. The U.S. National Transportation Safety Board recommended the pipeline industry develop a Pipeline Safety Management System after the 2010 Marshall, MI pipeline release. We worked together with liquids and natural gas pipeline operators, federal regulators such as PHMSA, state regulators, process safety experts, and members of the public over a stretch of two years to reach agreement on this important advance in pipeline safety. Over that time, we consulted with safety experts within other industries successfully using safety management systems to improve safety in their sectors. While the journey to complete RP 1173 was long and somewhat trying at times, the final product takes pipeline safety to a whole new level by fully embracing NTSB's recommendation. We look forward to working with PHMSA and others as we begin its implementation, and I believe have the opportunity to take pipeline safety to a whole new level with this new tool through implementation of Pipeline Safety Management Systems.

Another success story is the work of our API-AOPL Emergency Response Team. Formed two years ago, it has developed free, online training for local first responders. Some local fire and police departments, especially volunteer departments in rural locations, told us they just did not have the resources to obtain pipeline specific emergency response training. We responded to this need by bringing the pipeline training to them, free of charge, through an online correspondence course. This and other pipeline emergency response tools can be reached through the website www.PipelineEmergencyResponse.com.

For these efforts, I will proudly travel later this month to Nashville, TN and the annual meeting of the National Association of State Fire Marshals to receive their Norman Y. Mineta

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Excellence in Transportation Safety Award. Presented this year to API and AOPL jointly for the work of our Emergency Response Team, this award is given annually to an individual or team that has made a significant and lasting contribution to the safety of people, products and materials in transit. Through this award, state fire marshals recognize individuals and teams that have encouraged transportation safety standards above what is required, and have worked to ensure the safety of emergency responders.

As you can see, while the liquids pipeline industry has made great strides to advance pipeline safety, there is much work underway to further improve pipeline safety performance. I look forward to answering your questions on what has worked and areas where we can make further improvements.

XXXX

Mr. WHITFIELD. Well, thank you, Mr. Black.

And our next witness is Mr. Carl Weimer, who is the Executive Director of the Pipeline Safety Trust. Thanks for being with us, and you are recognized for 5 minutes.

STATEMENT OF CARL WEIMER

Mr. WEIMER. Good afternoon, Chairman Whitfield, and members of the committee. Thank you for inviting me to speak here today.

The Pipeline Safety Trust came into being after a pipeline disaster that occurred in 1999. While prosecuting that incident, the U.S. Justice Department was so aghast at the way the pipeline company had operated and maintained their pipeline, and the lack of oversight from federal regulators, that they asked the federal courts to set aside money from the settlement of that case to create the Pipeline Safety Trust as a watchdog organization over both the industry and the regulators. We have been trying to fulfill that vision ever since.

Reviewing the implementation of the 2011 Pipeline Safety Act is somewhat difficult because of the many required reports and changes to the regulations have yet to be produced. The slowness of the reporting and rulemaking process seems at odds with the public proclamations of concern and action from the Administration. While many are frustrated by this slow progress, it is difficult to know exactly where to lay the blame. PHMSA is partially to blame, since they have been slow to produce the required reports and regulation, but they have also been clear with Congress for a number of years now that they lack the resources needed to complete their mission in a timely manner. We also have noted that many times regulations and reports, once produced by PHMSA, get significantly delayed by the Secretary's office itself, or by the White House's Office of Information Regulatory Affairs. It would appear there is plenty of blame to be shared for the slowness in implementing many important pipeline safety initiatives.

Even with the slowness and delay, progress has recently been made, as evidenced by the reduction in the number of pipeline failures that involve both injuries and death to all-time low levels. Unfortunately, at the same time that the number of failures that injure people has been decreasing, the number of significant failures that dump products into the environment and damage property is increasing, as dramatically shown by the recent spill of crude oil into the ocean near Santa Barbara, and the second spill in just a few years of crude oil into the Yellowstone River. This increase in the overall significant failure rate shows that while the focus today maybe on PHMSA, ultimately, the companies that own and operate these pipelines are the ones that need to be held responsible for their failures.

PHMSA has in play a number of significant rulemakings that may very well address many of the key issues that were asked to address in the 2011 Act; expansion of integrity management, leak detection, automated shut-off valves, gas gathering lines, excess flow valves, depth of burial of stream crossings, and verification of maximum allowable operating pressure. We say these issues may be addressed because at this point we really don't know. While PHMSA has started the rulemaking process for many of these

issues, for the most of these items no actual rule or proposed rule has been produced.

Some of these efforts started well over 4 years ago, and the exact nature of the hold-up is unclear. We ask that you help break this logjam of delay, and if that is not possible, Congress should include these specific rules in the statute as part of the upcoming reauthorization.

Congress also asked for non-rulemaking studies and actions in the 2011 Act, which also have not been accomplished. The areas we are most concerned with include the available—availability of meaningful facility response plans, maps of high consequence areas, a study of the sufficiency of regulations for transport of diluted bitumen, report on excavation damage, and an NTSB-requested audit of the Integrity Management Program.

The report of gathering lines was recently submitted, but the gathering line issue is of particular importance to us since we see thousands of new miles of gas gathering lines going into the ground every year, with the majority of them being completely unregulated.

With the large increase in new pipeline infrastructure in some parts of the country, the aging infrastructure in need of replacement in other areas, and increased complexity of risk-based regulations, we were happy to see Congress provide a significant increase in PHMSA's budget for fiscal year 2015. This budget increase will allow PHMSA to add an additional 100-plus new positions, targeted inspections and enforcement, as well as more adequately compensating the states for their pipeline safety programs. It is now your job to ensure that PHMSA effectively expands and manages this increased workforce in ways that help decrease the recent uptick in significant pipeline safety failures.

As reauthorization of the National Pipeline Safety Program begins later this year, we would support a straight reauthorization of the current program to allow PHMSA to finally produce all the rules and reports previously requested, and address the long list of recommendations from the NTSB. For such a straight reauthorization to be successful, Congress needs to remain actively involved in oversight to ensure the Administration is doing the things they have been charged with.

Thank you again for letting me testify today.

[The prepared statement of Mr. Weimer follows:]



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**TESTIMONY OF
THE PIPELINE SAFETY TRUST**

**300 N. Commercial St., Suite B
Bellingham, WA 98225
(360) 543-5686
<http://www.pipelinesafetytrust.org>**

Presented by:

Carl Weimer, Executive Director

**BEFORE THE

SUBCOMMITTEE ON ENERGY AND POWER
OF THE
COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES**

**HEARING ON

OVERSIGHT OF PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT
OF 2011 AND RELATED ISSUES**

JULY 14, 2015

Good morning, Chairman Whitfield, Ranking Member Rush and members of the Subcommittee. Thank you for inviting me to speak today on the important subject of pipeline safety. My name is Carl Weimer and I am testifying today as the Executive Director of the Pipeline Safety Trust. I am also a member of the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Technical Hazardous Liquid Pipeline Safety Standard Committee, as well as a member of the steering committee for PHMSA's Pipelines and Informed Planning Alliance. I also serve on the Governor-appointed Washington State Citizens Committee on Pipeline Safety, and bring a local government perspective to these discussions as an elected member of the Whatcom County Council in Washington State.

The Pipeline Safety Trust came into being after a pipeline disaster that occurred sixteen years ago - the 1999 Olympic Pipeline tragedy in Bellingham, Washington that left three young people dead, wiped out every living thing in a beautiful salmon stream, and caused millions of dollars of economic disruption. While prosecuting that incident the U.S. Justice Department was so aghast at the way the pipeline company had operated and maintained their pipeline, and equally aghast at the lack of oversight from federal regulators, that they asked the federal courts to set aside money from the settlement of that case to create the Pipeline Safety Trust as an independent national watchdog organization over both the industry and the regulators. We have been trying to fulfill that vision ever since, but the spate of recent disasters makes us sometimes question whether our message is being heard.

Reviewing the implementation of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 is somewhat difficult because so many of the required reports and changes to the regulations have yet to be produced. The slowness of the reporting and rulemaking process seems at odds with the public proclamations of concern and action from the administration. While this slowness is frustrating to groups such as ours, it is also difficult to know exactly where to lay the blame. While PHMSA is certainly the easiest target since they have been slow to produce the required reports and regulations, they have also been clear with Congress for a number of years now that they lack the financial and personnel resources needed to complete their mission in a timely manner. We also have noted that many times PHMSA or personnel within the Secretary's Office have completed draft regulations and reports, but those efforts seem to get significantly delayed by the Secretary's Office itself or perhaps by the White House *Office of Information and Regulatory Affairs*. While PHMSA clearly needs to be held accountable, it would appear there is plenty of blame to be shared for the

slowness in implementing many important pipeline safety initiatives.

Even with this slowness and delay, over the past few years progress has been made as evidenced by the reduction in the number of incidents that involve injuries or death to all-time low levels most likely due to greater attention to safety in areas of high consequence. Unfortunately, at the same time that the number of incidents that injure people has been decreasing, the number of significant incidents that dump products into the environment and damage property is increasing as dramatically evidenced by the recent spill of crude oil into the ocean near Santa Barbara, and the second spill in just a few years of crude oil into the Yellowstone River. This increase in the overall significant incident rate shows that there is still a good deal of work to do to ensure adequate pipeline safety.

The pipeline industry, regulators, and public interest groups such as the Pipeline Safety Trust have come together with the publicly stated common goal of zero incidents, a goal that will continually drive all the involved stakeholders to do even better. This goal of zero incidents has also led most of the major industry groups to agree with our call for an expansion of the use of a system similar to the integrity management programs already required in high consequence areas to ensure greater safety for the environment and people living in more rural areas.

So while below we may criticize the implementation of some of the sections of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 none of us should lose sight of the progress that has been made over the past years, which demonstrates that further progress can yet be made. We believe such progress can continue, toward the ultimate goal of zero incidents, as long as all stakeholders are adequately included in the process to question each other's assumptions and hold each other accountable. With that in mind we would like to focus our testimony today on the following sections of the 2011 Act.

Sec. 2. Civil penalties

Sec. 3. Pipeline damage prevention

Sec. 4. Automatic and remote-controlled shut-off valves

Sec. 5. Integrity management

Sec. 6. Public education and awareness

Sec. 7. Cast iron gas pipelines

Sec. 8. Leak detection

Sec. 16. Study of transportation of diluted bitumen

Sec. 19. Maintenance of effort

Sec. 21. Gas and hazardous liquid gathering lines

Sec. 22. Excess flow valves

Sec. 23. Maximum allowable operating pressure

Sec. 24. Limitation on incorporation of documents by reference

Sec. 28. Cover over buried pipelines

Sec. 31 & 32 Pipeline inspection and enforcement needs & Authorization of appropriations.

Sec. 2. Civil penalties.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress doubled the level of penalties that PHMSA can levy against companies that fail to abide by the laws put in place to keep our communities safe. In the years since the passage of that bill PHMSA has used this new authority to significantly increase the monetary amount of proposed penalties. We applaud the increase in this penalty amount and PHMSA's use of these higher penalty limits. We believe that compared to the economic size of many of the companies being regulated that the size of the potential fines is far below the level necessary to cause a change in behavior, so encourage Congress to consider increasing the penalty limits again in future reauthorizations or removing the cap on the maximum size of fines.

The need to change behavior is apparent when you consider that significant pipeline incidents that are well within a pipeline operator's control have been increasing over the past ten years. During that same period the number of civil cases brought against operators for failing to abide by pipeline safety laws has trended slightly downward. As you can see by figure 1 the gap between the number of significant incidents occurring and the number of penalty cases initiated is increasing. In the future we hope to see both of these trends reverse, with pipeline operators doing more to decrease incidents, and PHMSA using their penalty authority more often when operators fail to keep their pipelines safe.

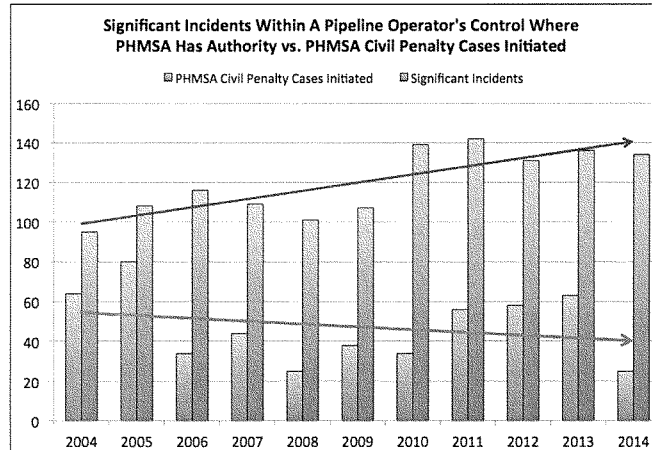


Figure 1

Sec. 3. Pipeline damage prevention.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked PHMSA to produce a report to examine the impact of excavation damage on pipeline safety, including frequency, severity and type of damage, and a survey of state exemptions. This report was sorely needed to help all those involved know where to invest in prevention strategies. The recent NTSB report¹ that noted that significant incidents are increasing on pipelines in high consequences areas stated, *“strategies should be developed to reduce other failure causes, such as equipment failure and excavation damage, in all pipelines.”* While PHMSA has produced this report, damage to pipelines by excavation continues to be one of the main causes of significant pipeline incidents as shown in figure 2.

¹ Integrity Management of Gas Transmission Pipelines in High Consequence Areas, NTSB Safety Study, SS-15/01

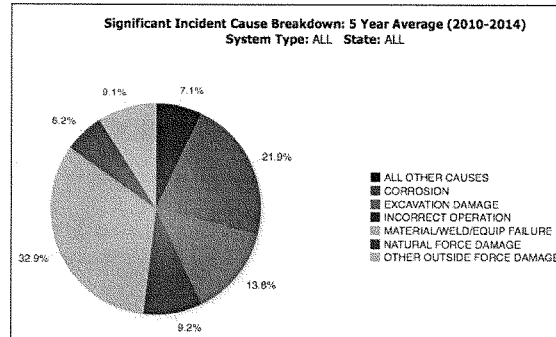


Figure 2

One issue that was identified in the report is that PHMSA does not collect any data on the vast majority of the incidents caused by excavation damage, and most states also lack such data. For example, because of the limited reporting requirements, the PHMSA incident database only includes 43 total pipeline incidents nationwide in 2012 caused by excavation damage. Yet the Annual Reports submitted each year to PHMSA from the gas distribution operators list 76,739 incidents of excavation damage in 2012. Unfortunately the reporting of excavation damage in the annual reports does not require any description about the incidents, so no real conclusions about these damages can be gleaned. The Common Ground Alliance, which is supported by PHMSA and the industry, has tracked excavation damage incidents for a few years now. Their "DIRT" report provides valuable information, but their reporting mechanism is voluntary, and all involved admit there are data quality issues and gaps in the reporting.

The industry and PHMSA continue to spend millions of dollars each year on these important damage prevention efforts. Clearly better data is needed to ensure that those expenditures are targeted in the right areas, and are being effective in reducing damage to pipelines.

To make matters worse, PHMSA drafted a proposed rule in 2012 to establish criteria and procedures for determining the adequacy of state pipeline excavation damage prevention law enforcement

programs. According to the most recent Report on DOT Significant Rulemakings² that rule has been held up in the Secretary of Transportation's Office for two years, and has yet to even be sent to the Office of Management and Budget for review.

Sec. 4. Automatic and remote-controlled shut-off valves.

Nineteen years ago Congress was debating a requirement for remote or automatic shutoff valves on natural gas pipelines in the wake of the Edison, NJ accident and the two and a half hours it took to shut off the flow of gas that fed the fireball due to the lack of a remotely controlled shut off valve. After the 2010 San Bruno tragedy where it took the pipeline operator over an hour and a half to drive to and close a manual valve the NTSB recommended that PHMSA ***"Amend Title 49 Code of Federal Regulations 192.935(c) to directly require that automatic shutoff valves or remote control valves in high consequence areas and in class 3 and 4 locations be installed and spaced at intervals that consider the factors listed in that regulation."*** Most recently the spill of at least 20,000 gallons of crude oil into the ocean near Santa Barbara has again reiterated the need for new rules regarding these types of valves to help limit the damage from pipeline failures.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 Congress asked the Secretary to consider within two years appropriate regulations to require the use of automatic or remote-controlled shut-off valves, or equivalent technology, on new or replaced pipelines. PHMSA did contract with Oak Ridge National Laboratory for a study of such valves. That study³ concluded that ***"installing ASVs and RCVs in pipelines can be an effective strategy for mitigating potential consequences of unintended releases because decreasing the total volume of the release reduces overall impacts on the public and to the environment."***

In 2010 PHMSA issued an Advanced Notice of Proposed Rulemaking (ANPRM) for hazardous liquid pipelines, and then in 2011 PHMSA issued an ANPRM for gas transmission pipelines. Both ANPRMs made it clear that some change to the requirements for automatic or remote-controlled valves was

² June 2015 Significant Rulemaking Report - <http://www.transportation.gov/regulations/june-2015-significant-rulemaking-report>

³

http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_2C1A725B08C5F72F305689E943053A96232AB200/filename/Final%20Valve_Study.pdf

being considered, although it was not clear whether those changes would be under these rulemakings or a separate future rulemaking. Many stakeholder groups invested a significant amount of time responding to these ANPRMs. Unfortunately, years later, information regarding how PHMSA will deal with this issue in their rulemaking has not been made available. The slowness of the rulemaking process regarding automatic and remote-controlled shut-off valves seems at odds with the public proclamations of concern and action.

Perhaps it is time for Congress to write in the statute what is expected regarding the use of these valves instead of relying on PHMSA to ever address this issue.

Sec. 5. Integrity management.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Department of Transportation to evaluate and report back within two years whether Integrity Management system requirements should be expanded and whether such an expansion would mitigate the need for class location requirements. After the 2010 San Bruno tragedy the NTSB released recommendations (P-11-004 & P-11-005) asking that the Department of Transportation conduct an audit of the effectiveness and enforcement of PHMSA's performance-based safety programs. While PHMSA did hold a workshop on possible Class Location changes, and has issued ANPRMs for both hazardous liquid and gas transmission pipelines, to date the required report, the NTSB requested audit, and any rule changes have not been completed.

We were contacted and interviewed by the Secretary's Office for input on the audit that was requested by the NTSB. We were told over two years ago that the draft of that audit was complete and was just undergoing review by PHMSA. PHMSA is proceeding with major rulemakings that will almost certainly include changes to Integrity Management programs. The Congressionally requested report on integrity management, as well as the NTSB requested audit of the effectiveness of this program should be used to inform the proposed changes that in some cases have already been drafted. We hope Congress will push for the release of these two reviews of the integrity management program.

In the meantime, NTSB has recently released their own report on the Integrity Management of Gas

Transmission Pipelines in High Consequence Areas.⁴ That report identified the following areas where integrity management could be improved:

1. Expanding and improving PHMSA guidance to both operators and inspectors for the development, implementation, and inspection of operators' integrity management programs;
2. Expanding the use of in-line inspection, especially for intrastate pipelines;
3. Eliminating the use of direct assessment as the sole integrity assessment method;
4. Evaluating the effectiveness of the approved risk assessment approaches;
5. Strengthening aspects of inspector training;
6. Developing minimum professional qualification criteria for all personnel involved in integrity management programs; and
7. Improving data collection and reporting, including geospatial data

That NTSB report goes on to say:

“that strategies for reducing potential incidents due to corrosion and material failure appear to be effective and should be expanded to non-HCA pipelines” and

“The NTSB further concludes that despite the intention of the gas IM regulations to reduce the risk of all identified threats, HCA incidents attributed to causes other than corrosion and material defects in pipe or weld increased from 2010–2013.”

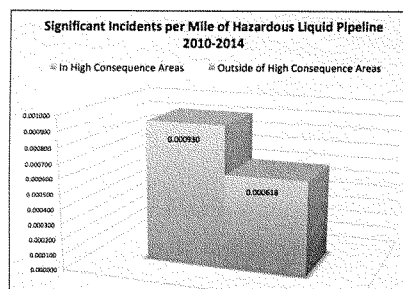


Figure 3

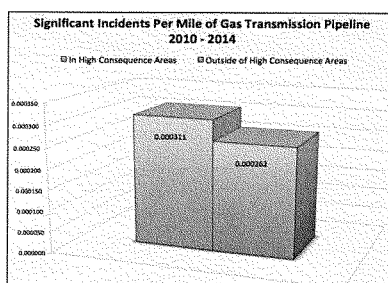


Figure 4

⁴ Integrity Management of Gas Transmission Pipelines in High Consequence Areas, NTSB Safety Study, SS-15/01, <http://www.nts.gov/safety/safety-studies/Documents/SS1501.pdf>

These NTSB findings are in line with our own analysis of the PHMSA data (see figures 3 & 4) which concludes that the number of significant incidents per mile of hazardous liquid and gas transmission pipeline is actually higher in High Consequence Areas covered by Integrity Management than in those areas outside of those additional “safety” requirements. All of these findings again point to the need for a thorough analysis of the current integrity management program to find out what is working well and what is not.

Sec. 6. Public education and awareness.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required the Secretary to provide a variety of information to help build public awareness regarding important pipeline safety programs. One of those requirements was to maintain on the National Pipeline Mapping System (NPMS) a map of High Consequence Areas. Such a map would allow emergency responders, local government planners, and the public to get a sense of where pipelines pose a higher threat, and also where pipeline regulations are more stringent to counter that increased threat. Unfortunately, PHMSA has not yet fully implemented this requirement, with only two of the five types of High Consequence Areas currently available to the public on the NPMS. In 2011 NTSB also recommended (P-11-008) ***“operators of natural gas transmission and distribution pipelines and hazardous liquid pipelines to provide system-specific information about their pipeline systems to the emergency response agencies of the communities and jurisdictions in which those pipelines are located. This information should include pipe diameter, operating pressure, product transported, and potential impact radius.”*** Then in 2012 the NTSB recommended (recommendation P-12-019) to the International Association of Fire Chiefs and the National Emergency Number Association to ***“urge your members to aggressively and diligently gather from pipeline operators system-specific information about the pipeline systems in their communities and jurisdictions.”*** Unfortunately such system-specific information remains difficult or impossible to get from pipeline operators. This type of information could also be made easily available on the NPMS. We hope Congress will push PHMSA to complete these actions soon.

The Oil Pollution Act of 1990 and its implementing regulations in part 194 of PHMSA's regulations require the operators of pipelines carrying petroleum products to submit a spill response plan to PHMSA for review and approval. In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required that PHMSA maintain a copy of each such plan and make them available to

the public, while allowing the Secretary to determine if certain kinds of information should be withheld. It appears that PHMSA has met the letter of the law regarding this requirement, but the recent oil spills into the Yellowstone River in Montana and the ocean in California, have again called into questions the extensive redaction that PHMSA does to these plans before releasing them to local governments or the public. This extensive redaction makes it nearly impossible to determine if a company has drafted effective and feasible spill plans, or whether they were able to actually successfully implement the plans when a spill occurs.

Sec. 7. Cast iron gas pipelines.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary to develop a status report that would be updated every two years to portray the mileage of cast iron pipeline in the country, and show the progress companies are doing in replacing that troublesome pipe. PHMSA completed that status report in December of 2012, and now provides an online status report⁵ that shows the mileage of cast iron pipe in the ground by state, and also the progress every individual company has made in replacing that pipe since 2004.

We applaud PHMSA's efforts in this regard to shine a light on how well both the individual companies have worked to replace these cast iron pipelines, but also how well each state is doing, since the states play an important role in designing the rate structures that allow and encourage such important replacement programs. Such individual comparisons of pipeline safety efforts would be a welcome addition in many other areas under PHMSA's authority.

Sec. 8. Leak detection.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary to provide a report within one year on the technical limitations of current leak detection systems, the practicability of developing standards for the capabilities of leak detection systems, and the costs and benefits of requiring pipeline operators to use such systems. PHMSA completed an in-depth study of leak detection systems in December of 2013.⁶ That study found that for hazardous liquid pipelines:

⁵ http://opsweb.phmsa.dot.gov/pipeline_replacement/

⁶

http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_4A77C7A89CAA18E285898295888E3DB9C5924400/filename/Leak%20Detection%20Study.pdf

- “The pipeline controller/control room identified a release occurred around 17% of the time.”
- Emergency responders or a member of the public were currently the most likely means of discovering a pipeline release.
- “There is no technical reason why several different leak detection methods cannot be implemented at the same time. In fact, a basic engineering robustness principle calls for at least two methods that rely on entirely separate physical principles.”
- “External sensors have the potential to deliver sensitivity and time to detection far ahead of any internal system.”

In 2010 PHMSA issued an ANPRM for hazardous liquid pipelines that asked in part whether PHMSA should “establish and/or adopt standards and procedures for minimum leak detection requirements for all pipelines.” Nearly four and a half years after the close of the comment period on that ANPRM the proposed rule has still not been issued. Again, the slowness of the rulemaking process seems at odds with the public proclamations of concern and action.

Perhaps it is time for Congress to write into the statute what is expected regarding the use of these valves instead of relying on PHMSA to ever address this issue.

Sec. 16. Study of transportation of diluted bitumen.

The July 2010 rupture of Enbridge Line 6b near Marshall, Michigan resulted in a release of approximately one million gallons of diluted bitumen ('dilbit'), comprising the largest onshore oil spill in U.S. history. That catastrophic spill polluted much of Talmadge Creek and dozens of miles of the Kalamazoo River.

Dilbit behaves differently in water than traditional crude in that it sinks as the light fractions evaporate, or when it weathers or mixes with sediment. Neither the operator, the local first responders, the local health department and medical providers, nor the state and federal resource agencies were prepared for a spill of this magnitude of this kind of oil. The cleanup has necessitated the development and modification of entirely new cleanup strategies and thus far exceeds one billion dollars in cost. The local communities did not have appropriate air quality monitoring equipment on site at the time of the spill to know the type or concentration of airborne contaminants they were

being exposed to, and some residents report continuing health effects from exposure to airborne pollutants in the days and weeks following the spill.

In response to concerns about plans for dramatic increases in pipeline transportation of this oil across the U.S. and the many unknowns about the safety of those plans, Congress enacted section 16 of the 2011 Act, directing the Secretary to "complete a *comprehensive review of hazardous liquid pipeline facility regulations* to determine whether the regulations are sufficient to regulate pipeline facilities used for the transportation of diluted bitumen" within 18 months (emphasis added). The Act further directed that in the course of that review, the Secretary was to conduct "an analysis of whether *any increase in the risk of a release* exists for pipeline facilities transporting diluted bitumen" (emphasis added). Unfortunately, the Secretary, acting through PHMSA, chose to very narrowly construe its mandate under this section, and in our view, ultimately initially completed only a fraction of its obligations.

First, no "comprehensive review of the hazardous liquid pipeline regulations" has occurred at all. PHMSA chose instead to initially focus only on a single piece of the second requirement of Section 16 and to contract out a study to the National Academy of Sciences with a very narrow scope: "whether shipments of diluted bitumen differ sufficiently from shipments of other crude oils in such a way as to increase the likelihood of releases from transmission pipelines."⁷ As the report from the NAS itself acknowledged: "***[D]etermination of the risk of a pipeline release requires an assessment of both the likelihood and the consequences of a release.***"⁸ The scope of work for the contract indicated that if the NAS report indicated (after looking only at existing information) that the differences between shipping dilbit and shipping traditional crude was likely to increase the *probability* of a pipeline spill, then and only then would it be asked to undertake a review of the differences in *consequences* from a dilbit spill, or to undertake the primary directive of Section 16, the comprehensive review of hazardous liquid regulations.⁹ Fortunately Congress stepped in and demanded that PHMSA also complete the part of the mandate that deals with the consequence of such a spill. PHMSA has again contracted with the National Academy of Sciences to investigate whether spill properties of diluted

⁷ TRB Special Report 311: Effects of Diluted Bitumen on Crude Oil Transmission Pipelines, (2013) at page 1.

⁸ Id. at page 2. (emphasis added).

⁹ Id.

bitumen differ sufficiently from those of other liquid petroleum products to warrant modifications of spill response plans, spill preparedness, or clean up regulations. This work is still ongoing

Sec. 19. Maintenance of effort.

PHMSA did grant waivers under the Maintenance of Effort clause to states in need during the 2012 and 2013 fiscal years. We believe this maintenance of effort was of value during the recent economic downturn to ensure that states had the resources to maintain pipeline safety programs, and to allow time to change funding structures if need be within their states to be able to cover the matching funds required to maintain their own pipeline safety programs. Many states already have implemented user fees on the pipeline operators within their jurisdictions to cover their state costs, and all states have this ability. At some point this waiver should cease so states that have taken responsible actions to find ways to cover their share of costs are not effectively subsidizing states that have not tried to do so.

Sec. 21. Gas and hazardous liquid gathering lines.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary to provide a report “of existing Federal and State regulations for gas and hazardous liquid gathering lines located onshore and offshore in the United States.” To date PHMSA has not provided that report.

According to PHMSA’s data,¹⁰ from reports that regulated pipeline operators have to submit each year, in 2013 there were 17,380 miles of regulated gas gathering lines. Many of these lines are the same size and pressure as transmission pipelines, but they are regulated far less with no requirements that they are ever inspected using the latest technologies. To make matters worse, according to a briefing paper from PHMSA¹¹ they estimate that there are 230,000 miles of actual gathering lines in the country, with over 210,000 miles of these gathering lines falling outside of any federal or state pipeline safety regulation.

¹⁰

<http://www.phmsa.dot.gov/portal/site/PHMSA/menuitem.6f23687cf7b00b0f22e4c6962d9c8789/?vgnextoid=78e4f5448a359310VgnVCM1000001ecb7898RCRD&vgnnextchannel=3b6c03347e4d8210VgnVCM1000001ecb7898RCRD&vgnnextfmt=print>

¹¹ PHMSA Briefing Paper, Onshore Gas Gathering, Technical Pipeline Safety Standards Committee Meeting, March 2011

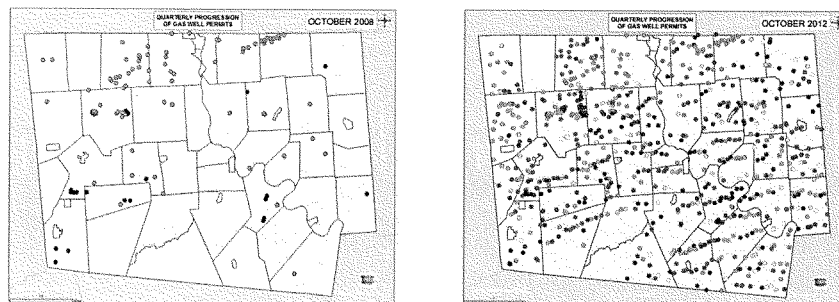
Figure 5¹²

Figure 5 shows the proliferation of wells drilled in just one county in Pennsylvania over a five-year period. All of these wells will eventually be connected with gathering pipelines, and most all of these pipelines will be totally unregulated in regards to safety. We believe it is time to ensure that any gathering pipeline with similar size and pressure characteristics to transmission pipelines fall under the same level of minimum federal regulations, including the integrity management requirements for those in high consequence areas. While PHMSA has hinted that they may include gas gathering lines in the rule that may eventually be proposed on gas transmission lines, that rule, like the required gathering line report, is still nowhere to be found. Again, the slowness of the reporting and rulemaking process seems at odds with the public proclamations of concern and action.

Sec. 22. Excess flow valves.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress asked the Secretary within two years, if appropriate, to “require the use of excess flow valves, or equivalent technology, where economically, technically, and operationally feasible on new or entirely replaced distribution branch services, multifamily facilities, and small commercial facilities.” In late 2011 PHMSA issued an ANPRM to start considering this process. Finally, more than three years after the close of comments on the ANPRM PHMSA just last week released a proposed rule and opened that rule for the comment period. We are most likely still at least a year away from actual adoption of some new requirements for expansion of the use of these valuable life saving valves. This is an open recommendation from the NTSB (P-01-002) dating back to 2001.

¹² Bradford County, PA - <http://www.bradfordcountypa.org/Natural-Gas.asp?specifTab=2>

Sec. 23. Maximum allowable operating pressure.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required that “Not later than 18 months after the date of enactment of this section, the Secretary **shall** issue regulations for conducting tests to confirm the material strength of previously untested natural gas transmission pipelines located in high-consequence areas and operating at a pressure greater than 30 percent of specified minimum yield strength.” This requirement stems from one of the key failures that led to the San Bruno, California disaster that killed eight people and destroyed a good portion of an entire neighborhood. The NTSB following their investigation of this tragedy recommended (P-11-014) that PHMSA *“Amend Title 49 Code of Federal Regulations 192.619 to delete the grandfather clause and require that all gas transmission pipelines constructed before 1970 be subjected to a hydrostatic pressure test that incorporates a spike test.”* The NTSB also recommended (P-11-015) that PHMSA *“Amend Title 49 Code of Federal Regulations Part 192 of the Federal pipeline safety regulations so that manufacturing- and construction-related defects can only be considered stable if a gas pipeline has been subjected to a post-construction hydrostatic pressure test of at least 1.25 times the maximum allowable operating pressure.”* We agree with these NTSB recommendations.

To date PHMSA has held a public workshop on a draft Integrity Verification Process in August of 2013, has held an extended comment period on that draft process, but has not yet released a proposed rule or even an ANPRM. Perhaps they plan to address this issue as part of the ANPRM they released regarding gas transmission pipelines in 2011, but that proposed rule also has not yet been released. Again, the slowness of the rulemaking process seems at odds with the public proclamations of concern and action.

Sec. 24. Limitation on incorporation of documents by reference.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress required the Secretary to ensure that any documents that were incorporated by reference into federal rules be made easily available to the public. This requirement was based on the common sense belief that the American public should have easy access to, and not have to pay to review, parts of the federal regulations and guidance documents that impact their lives. At the time this requirement was passed by Congress PHMSA estimated that there were 65 standards that were incorporated by reference into the federal pipeline safety regulations. To access those standards from the private standards

setting organizations, PHMSA estimated it would cost an individual between \$8500-\$9500.¹³

In the time since this requirement was passed PHMSA held a workshop on this issue, and has worked with the various standard setting organizations to make their standards that are incorporated into the regulations easily and freely available to the public. While great progress has been made this requirement is not yet complete because one standard setting organization – ASME – has refused to follow the lead of all the others. PHMSA continues to work with ASME to at least meet the letter of the Congressional requirement, if not the complete common sense intent.

Sec. 28. Cover over buried pipelines.

In July 2011, the ExxonMobil Silvertip Pipeline ruptured where it crosses the Yellowstone River near Laurel, Montana. The investigation into the cause of the failure revealed that the pipeline had been undermined by sustained floodwaters scouring the riverbed and exposing the pipeline, resulting in its failure along what had become an unsupported span submerged in the river. The rupture resulted in the release of about 1500 barrels of crude oil into the Yellowstone River, and approximately \$135 million dollars in property damage.

In the 2011 reauthorization act, Congress asked the Secretary to study hazardous liquid pipeline incidents at crossings of inland bodies of water with a width of at least 100 feet to determine if the depth of cover over the buried pipelines was a factor in any accidental release of hazardous liquids. If the Secretary's study found that depth of cover was "a contributing factor," then a review of the existing regulations and development of legislative recommendations was required.

The existing regulations require that newly constructed pipelines that cross inland water bodies with a width of at least 100 feet between high water marks be buried at least 48 inches beneath the riverbed. There is no requirement for maintaining any particular depth of cover. PHMSA concluded after its study that it required no additional legislative authority to address risks of hazardous liquid pipeline failures at major river crossings. We agree. While we feel there were major shortcomings in the study produced by PHMSA, and we believe that significant changes are necessary to the existing regulatory requirements for pipelines crossing water bodies, we concur that PHMSA possesses

¹³ PHMSA – FAQ on Incorporation by Reference - http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_CE1A83B0F73007F34B19FB80020AF3D9FB5B0100/filename/PHMSA%20IBR%20Meeting_FAQs%207.13.2012.pdf

adequate authority to improve the regulations. Whether such a rulemaking might ever be undertaken, or could make it through the substantial bottleneck that the rulemakings underway since 2010 and 2011 have encountered, are separate questions.

The river crossing study produced by PHMSA did succeed in highlighting several major issues with the existing rule and its implementation:

- PHMSA has no data set, geographic or otherwise, that identifies the 100-foot wide crossings that are subject to the rule at the time of construction, making enforcement of the rule dependent on having a PHMSA inspector on site at the time of construction at every crossing where the rule might apply.
- Rivers are dynamic systems, as the Silvertip failure graphically illustrates. The existing rule only applies at the time of construction, but does not require an operator to maintain four feet of cover over the lifetime of the pipeline.
- Many river systems narrower than 100 feet can dramatically scour their beds, putting perhaps thousands of other pipelines at risk of exposure and failure. The existing rule does not cover those crossings.
- The integrity management (IM) rules and their implementation and enforcement are not a sufficient substitute for an adequate rule prescribing operators' ongoing depth of cover obligations at all crossings. The Silvertip system underwent an IM inspection from PHMSA less than a month before its failure, yet there is no indication that the vulnerability of the line and the inadequacy of the operations plans were identified. Moreover, the IM rules apply to only 42% of liquid lines in the country. There may be many crossings that fall outside the narrow definition of an "unusually sensitive area" where IM rules would apply.

Sec. 31 & 32. Pipeline inspection and enforcement needs & Authorization of appropriations.

In the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Congress gave PHMSA permission to increase its inspection and enforcement staff by ten positions if PHMSA successfully filled the existing 135 authorized inspection and enforcement positions. In the fall of 2012 PHMSA notified Congress that the 135 positions had been filled.

With the large increase in new pipeline infrastructure in some parts of the country, the aging infrastructure in need of replacement in other areas, and increased complexity of regulations such as

the Distribution Integrity Management Program, we have long believed that a significant increase in personnel to ensure the safety of the nation's pipeline is justified. The Inspector General in 2014 released a report¹⁴ on the effectiveness of PHMSA's oversight of the state pipeline safety programs, which in many areas drove home the point that more personnel were needed. The report noted many significant problems with PHMSA's oversight of the state programs, and that PHMSA has only ***"six evaluators to review and score annual certifications and program evaluations, and oversee State agencies that participate in its State Pipeline Safety Program. Five of these evaluators also perform in-depth triennial grant reviews at State agencies."*** The report pointed out that some states such as Texas ***"lacked sufficient inspector resources to accomplish its integrity management inspections of gas transmission pipeline operators. This problem will become more acute because a PHMSA regulation that went into effect in 2010 requires States to inspect gas distribution integrity management programs as well as gas transmission."***

Our frequent interactions with PHMSA personnel have demonstrated how thinly stretched many of them are. For those reasons we are thankful that Congress supported PHMSA by providing nearly \$27 million in additional funding for the 2015 fiscal year. That funding will allow PHMSA to substantially increase funding for state pipeline safety programs, and hire 109 new positions within PHMSA mainly targeted at inspections and enforcement activities. The ball is now in PHMSA's court to show that they can effectively expand and manage this increased workforce in ways that help decrease the recent uptick in significant pipeline safety incidents.

The Coming Reauthorization

Thank you again for inviting us to testify today. As we move closer to the next reauthorization of the national pipeline safety program there is still much left to do from the 2011 reauthorization. We believe that Congress has given PHMSA the authority and the resources they need to move forward on many important pipeline safety efforts. While we have many ideas for further ways to increase pipeline safety, perhaps a straight reauthorization of the current program this year would allow PHMSA to expand and train staffing as new levels of funding allow, finally produce all the rules and reports they have yet to produce, and address the long list of recommendations from the NTSB. We

¹⁴ Office of the Inspector General – Audit Report, PHMSA's State Pipeline Safety Program Lacks Effective Management and Oversight, Report Number AV-2014-042, May 7, 2014

would support a quick straight reauthorization, as long as Congress remains actively involved in oversight to ensure the Administration is doing the things they have been charged with.

Mr. WHITFIELD. Well, thank you.

And at this time, I would like to introduce Mrs. Capps to introduce our final witness.

Mrs. CAPPS. Mr. Chairman, thank you for giving me this privilege. And it is an honor to welcome you to our panel and to our discussion today Dianne Black, who is Assistant Director of Planning and Development for the County of Santa Barbara. And I know that she has worked for the county for 30 years, and in that time, has had a lot to do with various regulations having to do with pipeline safety, and in her current role she has been in the middle of all the spill recovery and response efforts, as well as pipeline safety having to do with our most recent incident on the Gaviota Coast.

Mr. WHITFIELD. Well, thank you. And you are recognized for 5 minutes, Ms. Black.

STATEMENT OF DIANNE BLACK

Ms. DIANNE BLACK. Thank you. Good afternoon, Chairman Whitfield, and other members of the committee. Thank you for inviting me to testify today. My name is Dianne Black, I am the Assistant Director of the Planning and Development Department for the County of Santa Barbara in California.

I have been involved in the emergency response, permitting, and recovery for the Refugio oil spill, which was the result of a ruptured pipeline onshore in our county. I have overseen the permitting of oil and gas facilities in the county for nearly 20 years, and I have been involved in other oil spill responses, including the Torch oil spill from Platform Irene in 1997. I appreciate being here to share the experiences of Santa Barbara County in the review and permitting of oil and gas projects and associated pipelines.

Now the disclaimer. Within the Refugio oil spill response, I may be a decision-maker again for either emergency permits or other types of permits, and if that occurs, I will need to approach each permit application on a case-by-case basis. As a practical matter, that means that today I can provide you with general information, but I can't discuss how I might act on an application without reviewing it and reviewing the public comment associated with it.

With respect to the pipeline in Santa Barbara County that recently failed, the County of Santa Barbara entered into a settlement agreement with Celeron Pipeline Company in 1988 concerning the presumption that the county is preempted by federal law from regulating the design and operation of that pipeline. That precluded the county from inspecting operations by, and most permitting of, what is now known as the Plains All American Pipeline, the line central to the Refugio spill.

For the past decade or more, the county has not—to oil company applicants, the construction and safety systems required for inter and intrastate pipelines. Instead, subsequent to changes in federal law in 2002, the county has evaluated oil and gas projects, including associated pipeline systems, in their entirety as is required under the California Environmental Quality Act. The Federal Pipeline Safety Improvement Act of 2002 does not preempt local jurisdictions in California from their obligations under CEQA.

Working with oil company applicants, this has resulted in oil companies in Santa Barbara County routinely including state-of-the-art leak detection and spill prevention technology, including automatic shut-off systems in their project descriptions, which are then analyzed under CEQA. Pipeline systems which include automatic shut-off systems minimize the potential impacts from oil spills, including biological hazardous materials and risk, air quality, and recreational impacts.

Within the CEQA process, the County of Santa Barbara does not dictate what equipment oil companies must use in their pipelines in order to minimize impacts from oil spills. Rather, it is the oil companies themselves, through their own engineers, who determine what technology to build into pipeline projects in order to minimize impacts from spills. Automatic shut-off systems rely on pipeline sensors which detected changes in the pressure and flow, which indicate when there may be a problem in the pipeline. When pressure or flow anomalies are detected, the system automatically shuts down the pumps and valves associated with the pipeline to limit the potential release of oil. Automatic shut-off systems are distinguished from remotely-operated systems by the fact that automatic shut-off systems do not require human action, decision-making, or intervention to shut down the pipeline system. In other words, there are preset parameters which, if triggered, result in the pipeline system being automatically shut down without any human action. To be clear, the Plains All American Pipelines, both 901 and—which was the subject of this spill, and 903, to which it connects, do not have automatic shut-off systems. With the exception of the Plains pipelines, all of the major transmission pipelines in the county are equipped with automatic shut-off systems. These include all the pipelines that transport oil and gas from the offshore platforms to facilities in Santa Barbara County, and you can see those on the map that I provided for the record.

Additional pipelines within the county that are equipped with automatic shut-off systems include—the map that is on the screen, include line 96, which transports oil from the Ellwood Onshore Facility to Las Flores Canyon. Line 300, the onshore length of the pipeline from Platform Irene to the Lompoc Oil and Gas plant, and on to the Santa Maria Refinery. The Sisquoc Pump Station, which transports oil from the Sisquoc Pump Station to the Santa Maria Pump Station, and a permitted but not yet constructed pipeline in northern Santa Barbara County. Again, all of these automatic shut-off systems were incorporated into the project description for individual projects by oil company applicants prior to environmental review.

That concludes my prepared comments, and I would be happy to answer questions.

[The prepared statement of Ms. Dianne Black follows:]

House of Representative Committee on Energy and Commerce

Subcommittee on Energy and Power

Testimony on “Oversight of Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 and Related Issues”

**Dianne M. Black, Assistant Director
Planning and Development, County of Santa Barbara, California**

July 14, 2015

Summary of Remarks:

- Information regarding the limited County authority over the Plains All American Pipeline that failed on May 19, 2015
- Santa Barbara County’s experience in review of oil and gas projects, including associated pipelines
- Santa Barbara County’s review of the whole of a project under the California Environmental Quality Act
- Oil Company applicant’s inclusion of state of the art leak detection and spill prevention technology, including automatic shutoff systems, in their project descriptions
- Review of major pipelines in the County and their leak detection and spill prevention systems, including automatic shutoff systems

Good morning, Chair Whitfield, Ranking Member Rush, and other members of the subcommittee. Thank you for inviting me to testify this morning. My name is Dianne Black and I am the Assistant Director of the Planning and Development Department for the County of Santa Barbara in California. I have been involved in the emergency response, permitting and recovery for the Refugio Oil Spill, which was the result of a ruptured pipeline onshore in the County. I have also overseen the permitting of oil and gas facilities in the County for nearly 20 years, and have been involved in other oil spill responses, including the Torch oil spill from Platform Irene in 1997. I am appreciative of being invited here to share the experiences of Santa Barbara County in the review and permitting of oil and gas projects and associated pipelines.

Within the Refugio Oil Spill Response, I may be a decision-maker again, for either Emergency Permits or other permits. If that occurs, I will need to approach each permit application on a case-by-case basis. As a practical matter, this means that today:

- I can provide you with general information; but
- I cannot discuss how I might act on a particular permit application before I review that application, including review of the public comment that our County's land use codes include within the process for emergency permits;

With respect to the pipeline in Santa Barbara County that recently failed, the County of Santa Barbara entered into a settlement agreement with Celeron Pipeline Company in 1988 concerning the presumption that the County is preempted by federal law from regulating the design and operation of that pipeline. That precluded the county from inspecting operations by and most

permitting of what is now known as the Plains All American Pipeline, the line central to the Refugio Spill.

For the past decade or more, the County has not prescribed to oil company applicants the construction and safety systems required for inter and intra-state pipelines. Instead, subsequent to changes to federal law in 2002, the County has evaluated oil and gas projects, including the associated pipeline systems, in their entirety as is required under the California Environmental Quality Act. The federal Pipeline Safety Improvement Act of 2002 does not preempt local jurisdictions in California from their obligations under CEQA to study the potentially significant environmental effects of the whole of a project, including the potential environmental effects from oil spills. Working with oil company applicants, this has resulted in oil companies in Santa Barbara County routinely including state of the art leak detection and spill prevention technology, including automatic shutoff systems, in their project descriptions which are then analyzed under CEQA. Pipeline systems which include automatic shut off systems minimize the potential impacts from oil spills, including biological, hazardous materials and risk, air quality, and recreational impacts, that would be expected to occur as a result of a spill.

Within the CEQA process, the County of Santa Barbara does not dictate what equipment oil companies must use in their pipelines in order to minimize impacts from oil spills. Instead, it is the oil companies themselves -- through their own engineers -- who determine what technology to build into pipeline projects in order to minimize impacts from oil spills.

Automatic shutoff systems rely on pipeline sensors which detect changes in pressure and flow which indicate when there may be a problem in the pipeline. When pressure or flow anomalies are detected, the system automatically shuts down the pumps and valves associated with the pipeline to limit the potential release of oil. Automatic shutoff systems are distinguished from remotely operated systems by the fact that automatic shutoff systems do not require human action, decision-making or intervention to shut down the pipeline system. In other words, there are preset parameters which, if triggered, result in a pipeline system being automatically shut down without any human action. To be clear, the Plains All American Pipelines, both Line 901 which is the subject of the spill and Line 903, to which it connects, do not have automatic shutoff systems.

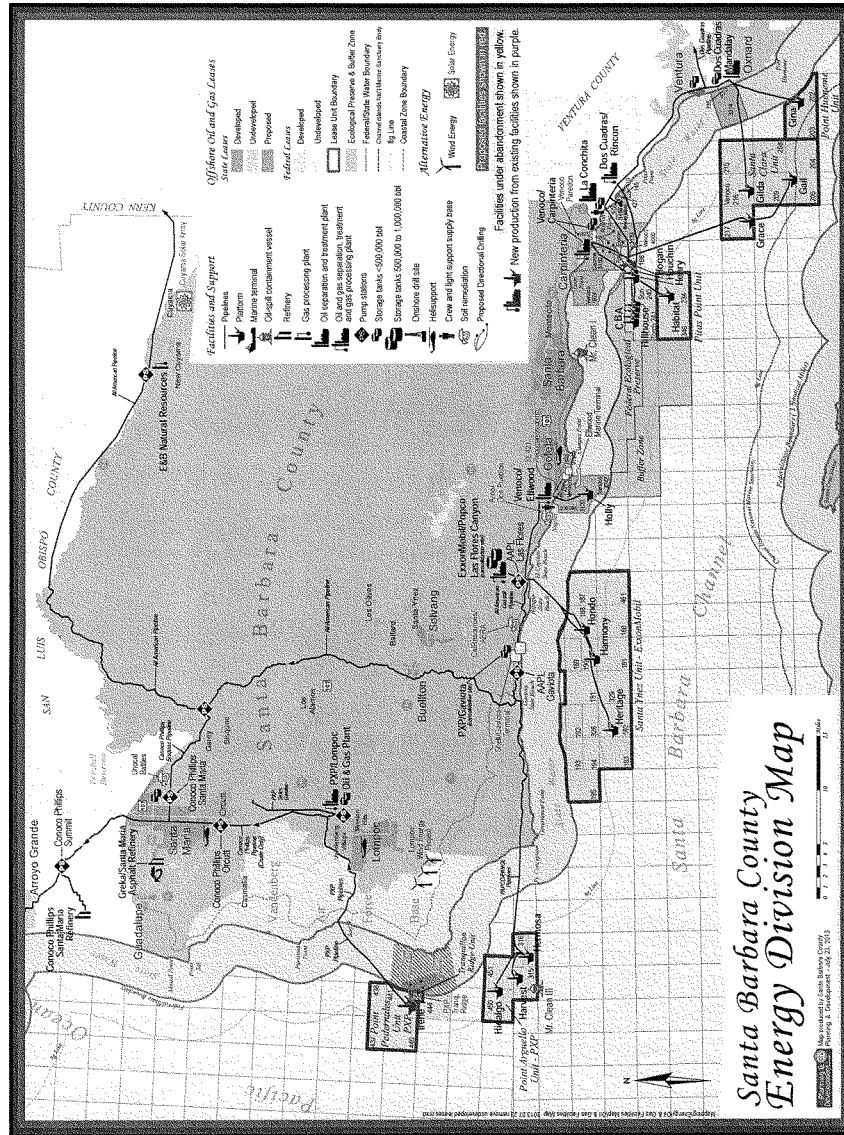
With the exception of the Plains pipelines, all of the major transmission pipelines in the County are equipped with automatic shutoff systems. These include all of the pipelines that transport oil and gas from the offshore platforms to facilities in Santa Barbara County: Platform Irene; the three Point Arguello platforms; the three ExxonMobil Platforms; Platform Holly; and, the numerous platforms offshore the City of Carpinteria.

Additional pipelines within the County that are equipped with automatic shutoff systems include: Line 96 which transports oil from the Ellwood onshore facility to Las Flores Canyon; Line 300, the onshore length of the pipeline from Platform Irene to the Lompoc Oil and Gas Plant and on to the Santa Maria Refinery; the Sisquoc Pipeline which transports oil from the Sisquoc Pump Station to the Santa Maria Pump Station; and the permitted but not yet constructed Foxen

Petroleum Pipeline that will transport oil from the Cantin Tank Battery to the Sisquoc Pipeline at Garey. Again, all of these automatic shutoff systems were incorporated into the project description for individual projects by oil company applicants prior to environmental review.

That concludes my prepared comments. I'm happy to answer questions at the appropriate time in this hearing.

Attachment: Santa Barbara County Oil and Gas Map



Mr. WHITFIELD. Well, thank you, Ms. Black. And thank all of you for your statements.

And I will recognize myself for 5 minutes of questions. Ms. Black, before you came today and listened to the testimony of Ms. Cummings, were you aware that 16 of the 42 safety standards in the 2011 bill had not had final regulations issued? Were you aware of that before?

Ms. DIANNE BLACK. Mr. Chair, I was aware, but only most recently had I become aware of that.

Mr. WHITFIELD. Because of this bill, all right.

Ms. DIANNE BLACK. Right.

Mr. WHITFIELD. Well, do any of you have any conclusions yourself as to why PHMSA has been not able to complete these safety standards? OK. All right.

Mr. Wise, on gathering lines, I know MSHA does not require regulations of gathering lines, but some states have decided to regulate those. Has Georgia taken action on that or—

Mr. WISE. No, sir, because for the most part, we are not the beneficiary of the opportunity to have gathering lines. We are—

Mr. WHITFIELD. Right.

Mr. WISE. We are not a fracking state.

Mr. WHITFIELD. Yes.

Mr. WISE. But we do think it is important. And again, as I said in my summary, that it is about safety or efficiency or both, and that if you are going to have pipeline safety, that it is important that gathering lines could and should be included in the states choose to enact that level of regulation.

Mr. WHITFIELD. Yes. Mr. Santa, do you or Mr. Bradley or Mr. Black have any comments on gathering lines in general?

Mr. SANTA. Mr. Chairman, many of our associate operators—INGAA represents the operators of natural gas transmission pipelines, in particular interstate transmission pipelines. We do not represent the gathering segment of the industry, so probably that question is best directed to those who represent or are in that segment.

Mr. WHITFIELD. OK. Do you have any additional comments you would like to make about it, Mr. Black?

Mr. ANDREW BLACK. Well, oil gathering lines are regulated to some extent by PHMSA if they are in a non-rural setting, if they cross an environment, an unusually sensitive area, or exceed a certain diameter.

Mr. WHITFIELD. Yes.

Mr. ANDREW BLACK. So more liquid is gathering regulations.

Mr. WHITFIELD. Do any of you have any idea what percent of all the pipelines in America have these automatic shut-off valves in them? Does anybody have any idea on that? OK. Do you, Mr. Weimer, have any ideas on that? OK.

They are not required, and I know that MSHA has conducted a study on this, and I guess as a layman you would think that this would be of benefit, but I keep hearing from technical people that it is not always a benefit. Would anyone have a comment on that? Yes, Mr. Black.

Mr. ANDREW BLACK. Liquid pipeline operators recommend and widely use automated remotely operated shut-off valves so that a

trained control room operator can deploy that valve as part of a controlled shut-down of a pipeline. Long-haul, high pressure, liquid pipeline operators generally do not use automatic shut-off valves and don't recommend it because of the pressure surge that can be created from a quick shut-off of an automatic valve that is not part of a planned shutdown.

We have analyzed and found nine releases in the past that are because of conditions similar to an automatic shut-off valve shutting. Found one rupture that put 4,000 barrels of refined products out on the right-of-way, that was caused because of conditions like automatic shut-off valves. So in liquids, long-haul, high pressure pipelines, automatic shut-off valves are not recommended.

Mr. WHITFIELD. Now, corrosion of pipelines is a major concern, correct? And it is my understanding that in different geographical areas, there are different amounts of corrosion. Is that true or is that not true?

Mr. SANTA. Yes, Mr. Chairman, that is true because a lot of it has to do with the environment—

Mr. WHITFIELD. Yes.

Mr. SANTA [continuing]. In which the pipeline is located, the soil, things of that nature.

Mr. WHITFIELD. And I have heard that in the Santa Barbara area that that is prone to a lot of corrosion there. Would anybody be able to confirm that or not? OK.

OK, now, would you agree—all of you would agree that pipelines still is the safest way to transport this material. Is everybody in agreement with that?

Mr. WISE. Yes, sir. And clearly, and as I have directed in our state, that we have had an aggressive replacement of bare steel and cast iron, and so where we had a very safe program to begin with, it is even safer today. And the One-Call Program has made it continue to be safer.

Mr. WHITFIELD. OK.

Mr. WISE. But it is an extraordinary delivery process.

Mr. WHITFIELD. Right.

OK, Mrs. Capps, you are recognized for 5 minutes.

Mrs. CAPPS. Thank you. I want to thank all the witnesses for being here today and for your testimony, and particularly, of course, my constituent coming all the way from California, and the fact that she testified in the state panel just last week on this topic. And in the wake of the Plains oil spill on May 19 on our shoreline, there has been a lot of discussion about the fact that the Plains All American—we have touched on it already, the Plains All American Pipeline is not equipped with an automatic shut-off system. And when questioned about this, that particular company echoed the longstanding industry position that such systems are not feasible for oil pipelines, yet Santa Barbara County has demonstrated this claim is not true.

So, Ms. Black, you explained in your testimony that there are numerous pipelines in Santa Barbara County that employ automatic shut-off systems and state-of-the-art leak detection technologies. Would you describe a few of the projects currently using these advanced safety systems in our county?

Ms. DIANNE BLACK. I went over those very briefly in my testimony, but I will——

Mrs. CAPPS. I know——

Ms. DIANNE BLACK [continuing]. Repeat it——

Mrs. CAPPS [continuing]. But——

Ms. DIANNE BLACK. I will repeat it a bit more slowly and emphasize that when I talk about automatic shut-off systems, I really mean the whole system. So I have heard the testimony from oil company representatives that they feel it is not the best practice, and that there is some risk involved. That has not been our experience. We have looked at them as a system where the pump is shut off and then valves are shut off sequentially. So I think we really have to talk about it as a system rather than valves.

So in Santa Barbara County, in addition to the pipelines that come from the platforms and have shut-off systems, we have several pipelines, most recently line 96, which is associated with the Venoco's Platform Holly, transports oil from the Ellwood Onshore Facility to Las Flores Canyon, and then ties into the Plains All American Pipeline. That has an automatic shut-off system. Line 300, which is the onshore length of pipeline from Platform Irene to the Lompoc Oil and Gas Plant, and then on to the Santa Maria Refinery——

Mrs. CAPPS. Yes.

Ms. DIANNE BLACK [continuing]. Has an automatic shut-off system. The Sisquoc Pipeline which transports oil from the Sisquoc Pump Station to the Santa Maria Pump Station, so pretty much onshore oil, also has an automatic shut-off system. And then we most recently permitted the Foxen Petroleum Pipeline, which was permitted with an automatic shut-off system.

Mrs. CAPPS. And I would like to ask for these to be submitted for the record, Mr. Chairman. And just to follow up briefly, has the use of any of these advanced systems caused any secondary ruptures or other serious problems in the county?

Ms. DIANNE BLACK. No, not in our entire history with them.

Mrs. CAPPS. OK. And oil development continues to thrive in the area, am I correct on that?

Ms. DIANNE BLACK. It does, as you can see from the map, although offshore oil has somewhat declined——

Mrs. CAPPS. Right.

Ms. DIANNE BLACK [continuing]. Because of resources.

Mrs. CAPPS. And no pipeline operators have gone bankrupt due to the cost of installing these systems, to your knowledge?

Ms. DIANNE BLACK. No.

Mrs. CAPPS. OK. There has also been some confusion regarding the definition of the term automatic. Plains and other companies often refer to their systems as automatic, even though a human operator must still decide to activate. That was the case with Plains. To clarify, the automatic shut-off system installed in Santa Barbara County, the ones you were describing, require no human intervention, is that correct——

Ms. DIANNE BLACK. That——

Mrs. CAPPS [continuing]. Just to be clear?

Ms. DIANNE BLACK. That is correct.

Mrs. CAPPS. And can you briefly explain how these advanced systems work compared to those on the ruptured Plains pipeline? Why are they so much more effective at detecting and stopping spills?

Ms. DIANNE BLACK. They are more effective because they don't require human interaction or intervention. They shut off based upon preset parameters, so an operator isn't having to make a decision that—

Mrs. CAPPS. All right.

Ms. DIANNE BLACK [continuing]. An actual parameter has been reached.

Mrs. CAPPS. Now, here is the other thing, and maybe this goes to CEQA too, our local program. While the local companies technically voluntarily install the more advanced systems, it is clear that the law, both state and federal, have played an important role. Can you elaborate on this—it sets the standard and everybody kind of gets onboard just because of the consequences of not doing so. So there is a self regulatory agency as well. What is the policy mechanism that pushed these companies to proactively include the state-of-the-art technologies in their project?

Ms. DIANNE BLACK. Well, the California Environmental Quality Act is a very powerful tool in California. The County of Santa Barbara reviews the whole of every project, whether it is something that is under our direct jurisdiction or not, we review it. And so pipeline companies in Santa Barbara County include in their project descriptions automatic shut-off systems to mitigate upfront the impacts of a potential spill.

Mrs. CAPPS. I have used up my time, Mr. Chairman. Thank you very much.

Mr. LATTA [presiding]. The gentlelady's time has expired and she yields back.

And I would also like to thank our panel today for being here. It has been very informational.

Mr. WISE, I think you were here for the testimony when Ms. Cummings was testifying, and she noted that there are issues with getting information from the states in a cost-effective way. Would you speak to the data you worked to provide to PHMSA?

Mr. WISE. I am sorry, sir?

Mr. LATTA. Ms. Cummings noted that there are issues with getting information from the states and getting that information in a cost-effective way. Would you be able to speak to the data that you worked to help provide to PHMSA in their mapping and everything else?

Mr. WISE. In my role as a commissioner, it is a state commission, we believe that our office of pipeline safety is extraordinary, and they do a great job of getting the information that is requested. And when there is an issue, PHMSA relates it to our staff and then we respond very quickly to that. And so I don't—I believe that we have a good working relationship, that they acknowledge the role that we played in Georgia to have a very safe delivery system, and I would be surprised to hear that, at least in my state, and haven't heard it from the other states, that there is a problem with information coming from the state commissions.

Mr. LATTA. Let me ask, also in your testimony that—you said that PHMSA has not updated the National Pipeline Mapping Sys-

tem including the identification of the high consequence areas. Could you go into that and the high consequence areas, and maybe what should be done?

Mr. WISE. Well, again, there is going to be the high deliverability, and it is an issue that clearly is important to the states and the regulators, and I think it was a question that was asked of one of the representatives—the members today about releasing that information to the public, and we are not knowledgeable of some of this mapping to this point, and believe it should be released.

Mr. LATTA. Well, thank you.

Mr. Black, how do pipeline operators use the inline inspection of so-called smart pig technology to find problems in the pipelines?

Mr. ANDREW BLACK. Yes, the smart pig device travels inside of the pipeline, gathering information about the pipeline as it goes. It uses technology to detect wall thickness, and different technologies to determine potential cracks. And then the information that is provided from the onboard computer that has traveled through the pipeline is reviewed. That is raw data, it is terabytes of it, that third party experts, as Director Cummings said, then review and they determine whether the information that has been provided is just about the natural features of the pipe or is about something that an operator needs to consider addressing. And importantly also, the smart pig vendor and the pipeline company will uncover a section of the pipeline that has been tested and review the results of the inline inspection to field inspections to calibrate the accuracy of the pig. This has succeeded in reducing corrosion-caused incidents by more than 76 percent over the last 15 percent. And corrosion was really the reason for modern integrity management and the advent of this inline inspection technology. It has been proven successful. Got a lot of R&D right now to improve the ability of the machines to sense more, and then the analytics of the people to determine what the machines are telling us.

Mr. LATTA. Thank you.

Mr. Santa, could you talk more about the 9-point pipeline safety action plan you mentioned, and what INGAA has done to educate the public about the safety measures that are undertaken with pipeline projects?

Mr. SANTA. Yes, sir. In the wake of the San Bruno tragedy in 2010, the INGAA Board committed to a set of voluntary commitments to improve pipeline safety. As I said in my testimony, it was anchored in the goal of zero incidents as the goal. That 9-nine program includes many of the elements that were addressed in the 2011 pipeline safety reauthorization, as well as some of the relevant NTSB recommendations. I won't go through all of the 9 points. Two of them to point out is a commitment to expand the use of integrity management, the—consequence areas. Another one is to perform the testing of pipe where it is necessary to verify the material strength of that pipe. We have engaged in an extensive outreach with pipeline safety stakeholders to keep them abreast of the progress that we are making there. Pipeline companies as part of their outreach to the public along their corridors communicate this, and also in connection with new pipeline projects, part of the outreach to the public includes addressing the safety of these systems.

Mr. LATTA. Well, thank you very much.

And I am going to yield back, and recognize the gentleman from California for 5 minutes.

Mr. MCNERNEY. Thank you. Thank you, Mr. Chairman.

I want to thank the panel. Very informative. I only have 5 minutes of questions, so I am a little disappointed.

Mr. Cummings, I am going to start with you. I asked—I mean Mr. Weimer. I asked Ms. Cummings to describe the rulemaking process. Her answer was very roundabout, very hard to understand. Is it a transparent process and is there a good deal of room for improvement in that process?

Mr. WEIMER. Yes, we think there is a good deal of room for improvement. Parts of it are transparent when they do the advance notice of proposed rulemaking, and the notice of proposed rulemaking. It opens it up for public comments, and all those public comments are transparent. Where it kind of disappears from that transparency is in the interim. Like on the liquid rule that was drafted almost 5 years ago, they went through an advanced notice of proposed rulemaking, took lots of public comments, supposedly went back and then wrote a proposed rule, and then it disappeared into the black box somewhere between the Secretary's office and the White House.

Mr. MCNERNEY. Yes.

Mr. WEIMER. And that part of the process of where that is and why it has taken so long is, I think, why everybody up here has been frustrated.

Mr. MCNERNEY. And the agency wouldn't have any control over that.

Mr. WEIMER. Well, I think once PHMSA writes the rule and sends it up, it's over their head. So it is above their pay grade at that point.

Mr. MCNERNEY. Well, you mentioned that Congress should expedite the rulemaking or write rules into the legislation. Now, in my opinion, that would open up a lot of opportunity for legal action, for law suits. Wouldn't that be the case?

Mr. WEIMER. Well, I think it is probably wise that you are not pipeline engineers and experts that—so drafting rules might not be the best for Congress, but there are instances where that has been very successful. In the 2006 Act, you put a rule right in there for excess flow valves that led to millions of excess flow valves being put on the new houses being constructed around the country that the NTSB says has saved lives.

Mr. MCNERNEY. Yes.

Mr. WEIMER. And so there are a few instances where specific rules that are pretty well clarified can be put right into the statute.

Mr. MCNERNEY. Well, thank you. Well, we are seeing an abundance of natural gas production now in this country, do we have the capacity to manage that safely with minimum leakage and minimum opportunity for accidents?

Mr. WEIMER. Well, I think it is a good step forward. The new budget that PHMSA was given to hire more inspectors and enforcement folks, and to help support the states in that too. I think the piece that is missing is the gathering lines that has been talked about. When Ms. Cummings talks about 2.6 million miles of pipe-

lines in this country, she isn't including the 2 or 300,000 miles of gathering lines that are completely unregulated——

Mr. MCNERNEY. Yes.

Mr. WEIMER [continuing]. In most all states.

Mr. MCNERNEY. OK, thank you.

Mr. Black, I am going to follow up on the smart pig question. Do you think that is the best technology that is out there for inspecting pipes?

Mr. ANDREW BLACK. Of the methods of conducting integrity management, we have found inline inspection or smart pigs to be the best. So now the research projects are about how to make those pigs more capable, and to improve our capability to process that information. We find the hydrostatic pressure testing to be very helpful when commissioning a new pipeline, for understanding if it is ready for operation.

Mr. MCNERNEY. Is there any technology out there that you think is going to make it easier or cheaper to conduct testing?

Mr. ANDREW BLACK. Well, it is not getting cheaper to use these. The pigs are getting more specialized. Whereas there used to be one type of pig that did one type of data gathering, now operators are using multiple types of——

Mr. MCNERNEY. Yes.

Mr. ANDREW BLACK [continuing]. Technologies. That means multiple types of inspections or several in the same train with—inside a pipe. That is where technology is growing, and we are spending a lot of money on research and development and a consortia to try to improve that record further and drive down the number of incidents.

Mr. MCNERNEY. OK. Mr. Santa, you mentioned that there is a need for consistency between voluntary actions and rules. How do you find the cooperation between the agency and the private sector?

Mr. SANTA. Mr. McNerney, as I mentioned in my testimony, INGAA and its members have engaged with PHMSA and other stakeholders following the 2011 reauthorization, and we found that to be a good and productive process, and we believe that our input will be reflected in the rules when they are proposed. By the same token, we need that certainty that comes with those proposed rules, and also as I noted, given the delays that have occurred and that may well continue, getting some items addressed in the reauthorization we think would be constructive.

Mr. MCNERNEY. I just want to say, Mr. Wise, I detected a lot of frustration in your testimony about unpublished information that is out there, the delays, and I know you don't have time to answer on my 5 minutes, but I certainly appreciate your comments.

Mr. WISE. Thank you, sir.

Mr. MCNERNEY. Thank you, Mr. Chairman.

Mr. WHITFIELD. At this time, recognize the gentleman from Virginia, Mr. Griffith, for 5 minutes.

Mr. GRIFFITH. Thank you all very much for being here.

I asked the earlier panel about collocation and if they knew of any safety concerns with locating within the same easement, and I will open that up to any of you all. Do you all know of any safety concerns, mainly talking about natural gas? Two pipelines, one in

my district, one in just outside of my district, are being built in Virginia, are being proposed in Virginia as we speak. Anybody know why they can't collocate with other gas pipelines or in the same easement footprint? Any safety reasons anybody knows about? Mr. Bradley?

Mr. BRADLEY. Yes, I will take a shot at answering from the perspective of the natural gas distribution companies. We are in the streets with the water departments, with the sewer departments, and many times our infrastructure went in the same time. So you pick a year, 1950, 1940, so we are back together. We try to go in together to make sure that we minimize the impact on the town, the neighborhood, and we keep costs down by sharing some of the restoration, repave kind of costs. With that being said, it is still important for us to make sure that there is some separation that is acceptable between the infrastructure.

So we try to leverage the proximity in local build-up communities, and we do go in, not in the same trench but in the same street, we just keep the right separation.

Mr. GRIFFITH. Thank you very much. I appreciate it. Anybody else want to—

Mr. SANTA. I mean there are instances where natural gas transmission pipelines are collocated with other infrastructure, for example, sometimes the same corridors as electric transmission lines. There are issues there that need to be addressed in terms of the cathodic protection of the pipelines and things of that nature. So one needs to be mindful of that. But I think pipeline operators look for opportunities to use corridors that already have been used to avoid the disruption and the effects on the communities and the environment.

Mr. GRIFFITH. And assuming that there isn't a safety concern, that would be a wise path, would it not?

Mr. SANTA. For purposes of minimizing disruption, it would be, yes.

Mr. GRIFFITH. Absolutely. Appreciate that very much.

Mr. Bradley, do local distribution companies pay user fees for the transmission lines?

Mr. BRADLEY. By way of paying for the transmission service, we do—

Mr. GRIFFITH. Yes, sir.

Mr. BRADLEY [continuing]. Pay user fees indirectly.

Mr. GRIFFITH. All right.

Mr. BRADLEY. Yes.

Mr. GRIFFITH. And you mentioned in your testimony that there are several regulations that have just been implemented and need time to work before assessing whether additional changes need to be made to enhance safety. Can you tell me what some of those regulations are?

Mr. BRADLEY. Could you say that again?

Mr. GRIFFITH. Yes, sir. You said in your testimony there are several regulations that have recently or just been implemented and need time to work before assessing whether additional changes need to be made to enhance safety.

Mr. BRADLEY. Yes, thank you. So we are watching the regulations around construction. There is a regulation that was just re-

leased around construction around new infrastructure. So, for example, there is a lot of gas main being installed. There is a drive for it, not only from a safety perspective, but from a brand new service to customers perspective. And in doing that, a number of our local distribution companies just aren't staffed for it, so we contract the work out. We want to make sure that the contractors are qualified effectively to do the work. There is a ruling out that we are reviewing right now that speaks to that. We want to make sure that it is going to hit the need that is required for this.

Mr. GRIFFITH. All right. And can you tell me how data is gathered and shared among the industry over time that might be used to enhance regulations in the future—

Mr. BRADLEY. Yes.

Mr. GRIFFITH [continuing]. Or help us figure out what we ought to do?

Mr. BRADLEY. HEA member companies are involved in a number of activities that support that, so we meet frequently for best practice reviews. We like to check in with each other to figure out who is doing whatever it is best. We look at benchmark data, we see who has that figured out, whether it is OSHA recordables, whether it is pipeline incidents, we bring people in to meet. One of the big issues that you have heard about is underground damages. So we want to understand the best performer relative to hits per 1,000 ticket calls. We want to bring those in and talk to them. We do that frequently at the American Gas Association. In addition, we do peer reviews—peer-to-peer reviews with our companies.

Mr. GRIFFITH. Well, I do appreciate that.

I do have another safety question one of my constituents has asked, because we are dealing with these pipeline issues, and particularly large natural gas pipelines. Right now, they are being told it is safe to drive over them when they put them in the ground. They are being told they can drive over it. Does anybody know of any reason why that would be a problem, because a lot of my folks are going to harvest timber once every 35 to 50 years. Would that be a problem for a timber truck to drive over one of these, or a fully loaded cattle truck?

Mr. SANTA. Mr. Griffith, I think those kind of issues would be addressed in the design of the pipeline, and there is a very extensive review of that that occurs at the Federal Energy Regulatory Commission, and also as part of that there is the application of the PHMSA pipeline safety rules during that process. So I do not think there is any reason for undue concern about that.

Mr. GRIFFITH. All right. I appreciate it very much. And I yield back.

Mr. WHITFIELD. The gentleman yields back.

At this time, recognize the gentleman from New York, Mr. Tonko, for 5 minutes.

Mr. TONKO. Thank you, Mr. Chair.

Mr. Weimer, your testimony points to a recent National Transportation Safety Board report on the integrity management of gas transmission pipelines in high consequence areas. You list seven areas that the NTSB identified for improvement in these system requirements. Has PHMSA acted on any of these recommendations at this point?

Mr. WEIMER. No, I—they are fairly new regulations and PHMSA hasn't acted on them. It is another one of those things that may be in some of the regulations they are working on. There was a lot of discussion as part of the advanced notice of proposed rulemaking on both the liquid and the gas side about strengthening some of the integrity management rules. So some of those things may be acted on, but they haven't been acted on yet.

Mr. TONKO. Thank you. And there are several major natural gas pipeline projects, either proposed or underway, that will pass through my given congressional district. These projects are quite unpopular in the communities that will be hosting them. And my constituents have raised a number of concerns about these projects, including the safety of the pipelines and the associated facilities. Compression stations, as an example. Also because these projects will pass through small communities, my concern is that they do not come under the high consequence area designation. For anyone impacted by an accident, there is no such thing as a low consequence area. And it sounds as if the Integrity Management Program isn't achieving the additional safety we would all like to see.

So what standards, materials, and technologies are available to ensure greater safety of pipelines and their associated facilities?

Mr. WEIMER. Well, I think the Integrity Management Program has achieved some of the things that it was set out to do, and the recent NTSB study that I had mentioned paints that picture, that for some time dependent flaws like corrosion, it has been pretty successful, and NTSB says that in those rural areas that are not currently covered under integrity management or those high consequence areas, expansion of those types of technologies into those areas would help. The problem they saw was that companies aren't really integrating other types of risks into their integrity management very well. It has helped with some things, but not across the board.

Mr. TONKO. Yes. And your testimony indicates that significant incidents are increasing on pipelines in high consequence areas, and apparently, excavation is one of the main causes of significant pipeline incidents. So I gathered from Mr. Cummings' response to my question to her about—or Ms. Cummings' response to my question to her about whether PHMSA has accurate and complete maps of pipeline locations, that the answer is no.

Mr. WEIMER. Yes, and that is one of the rules they are working on, strengthening that National Pipeline Mapping System. The current plus or minus factor on a lot of that maps is plus or minus 500 feet. So the pipeline could be, you know, on the other side of the road or a different side of the neighborhood than where—

Mr. TONKO. And—

Mr. WEIMER [continuing]. It shows on their maps.

Mr. TONKO. And to the impacted communities, that is a relevant situation.

Mr. WEIMER. Right, and—

Mr. TONKO. Yes.

Mr. WEIMER. But the one thing to mention is that those maps should never be used for excavation. You know, if you really are going to go in and dig, you need to call 811 to get a really accurate location of where the pipeline is.

Mr. TONKO. And I think it is easy to calculate that the efforts of PHMSA to communicate with local authorities about how to avoid excavation damage is handicapped by that lack of information. Frankly, this is shocking. At a minimum, we should know the location of the existing networks. Would this information help to avoid the problems we are seeing with excavation damage to pipelines?

Mr. WEIMER. Well, I think more accurate maps would help give people an idea of where the pipelines are in their area but really the way to get at the excavation damage is just for everybody to really understand that 811, Call Before You Dig. That is the accurate system that is going to really keep—

Mr. TONKO. And is it a resource problem when it comes to accurate mapping, or are there other barriers that face us in obtaining or organizing this information?

Mr. WEIMER. Yes, I think to some degree it is a resource problem. I have heard the industry talk about how expensive it would be to go out and GIS their pipelines to more accurate—lots of companies have already done that, but other companies haven't.

Mr. TONKO. Did the states do a better job?

Mr. WEIMER. The states—this is really a federal regulation of the NPS mapping, so it falls on PHMSA.

Mr. TONKO. Thank you very much.

Mr. Chairman, I see I have exhausted my time. I yield back.

Mr. WHITFIELD. Thank you, Mr. Tonko.

We were waiting for Mr. Green, who I was told was on his way.

Mr. Weimer, one other question I would just like to ask you, you had mentioned in your opening statement that the public—the Pipeline Safety Trust was funded originally through the Department of Justice in a court case. I was curious, your funding today, is that through private donations or how is that done today?

Mr. WEIMER. Well, luckily, the Board members of the Pipeline Safety Trust, who were the families originally that had lost their children in that explosion, invested that money very wisely, so we received \$4 million from the Justice Department to create the trust. I think we have \$4.4 million of it today, so a large degree we live off that wise investment, and we also do get some grants, and we run an annual national conference that brings in some money also.

Mr. WHITFIELD. Excellent. OK, thanks.

Mr. Green has appeared. So at this time, I would like to recognize the gentleman from Texas for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman.

Commissioner Wise, PHMSA has not published any information pertaining to valves, integrity management, or leak detection. Can you explain what steps the Georgia Public Service Commission can and has taken to address these issues without PHMSA action?

Mr. WISE. We are very interested both in my state and the National Association on this information. We think it is vital to understand the impact and a potential rate structure impact on the LDCs, and the customers that pay their bills.

Mr. GREEN. Yes. OK. In your testimony you mentioned gathering lines. Can you explain your position on the issue of what PHMSA needs to do to fulfill its responsibilities?

Mr. WISE. We believe the review should be left to the individual states as to the level of scrutiny and inspection of gathering lines. PHMSA should respond to that request. Georgia is not going to be one, we don't have gathering lines, but I think a number of states, for safety and integrity of the system, we should have some level of review.

Mr. GREEN. OK. Obviously, in Texas we have no shortage of gathering lines.

Mr. Weimer, it seems that PHMSA is focused on public awareness but hasn't accomplished much by way of regulation. It seems that the industry has done quite a bit to address pipeline safety even without PHMSA. What are your thoughts on the industry actions?

Mr. WEIMER. Yes, public awareness has been a hard nut to crack and the industry has spent tens of millions of dollars on it. There are regulations that require the industry to reach out to a variety of stakeholders, the public, local public officials, or emergency responders, but there is no requirement on the other end that the local governments pay attention. So to some degree, the industry has been pushing out a lot of information, but it is falling in the hands of people that are way too busy already and it is not being paid attention to enough. Somehow, we need to learn to message better to all those local governments so they pay attention instead of waiting until something happens, like in Santa Barbara, and then all of a sudden they are paying lots of attention.

Mr. GREEN. Well, it is frustrating though because I think I have been on the committee for about three or four pipeline reauthorizations, and this is, say, 4 years from when we last did it and they still haven't gotten most of the requirements that we wanted done in 2011. Do you think that two additional years would provide PHMSA the appropriate amount to finalize these outstanding policies?

Mr. WEIMER. I think it would provide them enough time to get most of that done. It sounds like a lot of the new rules are about to roll out. Once the rule comes out, there is going to be another year for the public—for all the stakeholders to comment and for them to redraft the rule, so we are not going to really know what is and isn't in these rules for a couple of years, one way or another at this point.

Mr. GREEN. Yes. Mr. Santa, in your testimony you discuss the PHMSA user fee. What benefits would increased assessments provide?

Mr. SANTA. Mr. Green, the user fee offsets the cost of the PHMSA Program and also is the source of a lot of the funds that PHMSA provides to the states in the form of state grants.

Mr. GREEN. Yes.

Mr. SANTA. And I know that Mr. Wise in his testimony on behalf of NARUC made the case for even more funding there. I think the point raised by INGAA in our testimony had to do with the equity of the way the user fee is structured by statute, that it is collected only from natural gas transmission pipeline operators, when in fact, the large majority of the funds collected via that fee are used for other purposes. And we raised questions as to whether or not this still legitimately constitutes a user fee. We pointed out that

the Senate Appropriations Committee and the Transportation, Housing and Urban Development bill highlighted this issue. So I think it is an effective mechanism to fund the program, however, the equity of it in terms of the collection and the beneficiaries is something I think that needs to be addressed both as a matter of policy and also to continue to satisfy the law.

Mr. GREEN. Would that be something we could do in a pipeline safety reauthorization?

Mr. SANTA. Yes, sir, I believe it is. It is something that—in that language in the Senate Appropriations Bill, they noted that it was something for the authorizing committees to address.

Mr. GREEN. OK. Thank you, Mr. Chairman.

Mr. WHITFIELD. Thank you.

At this time, I would recognize the gentleman from Illinois, Mr. Rush, for 5 minutes.

Mr. RUSH. Mr. Chairman, I am going to be brief.

I just have a question for Ms. Black.

Mrs. Black, I want to thank you for being here, and all of our thoughts and prayers are with you and the Santa Barbara area as you continue to deal with the spill that caused so very much damage to your community.

What was your initial reaction when you heard that Plains America, the same owners of the pipeline that ruptured in Santa Barbara just 2 months ago, was also responsible for another, although smaller, leak in Illinois this past weekend, and are you satisfied with the corrective action that PHMSA imposed on Plains America? And lastly, do you feel that there is more to be done either from the standpoint of information-sharing, regulatory authority, additional resources, or any other area that could help empower local communities and help prevent future disasters?

Ms. DIANNE BLACK. That was a long question.

Mr. RUSH. Yes, it was.

Ms. DIANNE BLACK. So I will try to piece it apart and answer it.

Mr. RUSH. Yes, ma'am.

Ms. DIANNE BLACK. Please feel free to follow up if I miss pieces of it.

Mr. RUSH. Yes.

Ms. DIANNE BLACK. So reaction. I felt sorry for the community that also suffered. So that was really personal reaction.

In terms of satisfaction with the corrective order, I will let you know. It depends on what sort of process is undertaken to re-commission line 901. I am satisfied that it shut in right now. I am satisfied that Plains has not recommissioned line 903, at least as to the Sisquoc Pump Station. So I am satisfied with that right now, but I am concerned about recommissioning that line without having the protection systems in place that are in place for other pipelines within the county. So I would be very satisfied if an automatic shut-off system were put into place on that pipeline. And I would be very satisfied to see the smart pig results and the interpretation of those results to see if there are other issues within the line.

Mr. RUSH. So are you satisfied then with the level of responsibility that Plains America assumed and their subsequent actions in Santa Barbara, were they strong actions, corrective actions?

Ms. DIANNE BLACK. So the response in Santa Barbara County so far has really been clean-up efforts. And yes, I think that under unified command, Plains has done a good job of addressing clean-up concerns. What we haven't seen yet is the recommissioning efforts; what is going to happen when that pipeline is put back into service, and what sorts of systems will be in place then.

Mr. RUSH. Yes. Thank you very much.

Mr. Chairman, these witnesses have been in the chair for a long time, and you have been in the chair for a long time, so in the interest of time I am going to yield back the balance of my time.

Mr. WHITFIELD. You know what, you are a fine gentleman.

Mr. RUSH. I thought so. I thought so.

Mr. WHITFIELD. Well, I want to thank the witnesses for being with us today. We do value your input. And as we move toward reauthorization, of course, your comments will be useful.

I am also inserting into the record, at the request of Mrs. Capps, the corrective action orders from the Pipeline and Hazardous Materials Safety Administration to the Plains Pipeline Company, without objection.

Mr. WHITFIELD. And then we will keep the record open for 10 days for any additional materials. I know that one of the Democratic members had asked to submit some questions, I think, to Ms. Cummings, so that will be done as well.

But thank you all. We look forward to working with you as we move forward, and thanks for coming all the way from California and Washington State.

And with that, the hearing is adjourned.

[Whereupon, at 1:25 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

MAY 21 2015

1200 New Jersey Avenue SE
Washington, DC 20590

VIA CERTIFIED MAIL AND FAX TO: 713-646-4378

Troy Valenzuela
Vice President EHS
Plains Pipeline, LP
333 Clay Street, Suite 1600
Houston, TX 77002

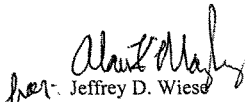
Re: CPF No. 5-2015-5011H

Dear Mr. Valenzuela:

Enclosed is a Corrective Action Order issued in the above-referenced case. It requires Plains Pipeline, LP to take certain corrective actions with respect to Line 901 of your pipeline system that failed on May 19, 2015, near Santa Barbara, CA. Service is being made by certified mail and facsimile. Service of the Corrective Action Order by electronic transmission is deemed complete upon transmission and acknowledgement of receipt, or as otherwise provided under 49 C.F.R. § 190.5. The terms and conditions of this Order are effective upon completion of service.

Thank you for your cooperation in this matter.

Sincerely,


Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Linda Daugherty, Deputy Associate Administrator for Field Operations, OPS
Mr. Chris Hoidal, Director, Western Region, OPS

U.S. DEPARTMENT OF TRANSPORTATION
 PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
 OFFICE OF PIPELINE SAFETY
 WASHINGTON, D.C. 20590

In the Matter of)	
)	
Plains Pipeline, LP,)	CPF No. 5-2015-5011H
)	
Respondent.)	
)	

CORRECTIVE ACTION ORDER

Purpose and Background:

This Corrective Action Order (Order) is being issued, under the authority of 49 U.S.C. § 60112, to require Plains Pipeline, LP (Plains or Respondent), to take the necessary corrective action to protect the public, property, and the environment from potential hazards associated with the recent failure on your pipeline in Santa Barbara County, California.

On May 19, 2015, a reportable accident occurred on Plains' Line 901 pipeline, resulting in the release of approximately 1700 to 2500 barrels of heavy crude oil (Failure). Line 901 is a 24-inch diameter pipeline approximately 10.6 miles in length that transports crude oil from Exxon Mobil's breakout storage tanks in Las Flores Canyon to Plains' Gaviota Pump Station. The cause of the Failure has not yet been determined. Pursuant to 49 U.S.C. § 60117, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), initiated an investigation of the accident. The preliminary findings of the ongoing investigation are as follows:

Preliminary Findings:

- Plains Pipeline, LP (Plains), is a publicly traded master limited partnership that operates approximately 17,800 miles of crude oil and natural gas liquids pipelines and gathering systems throughout the United States, including California and Texas.¹
- The failed pipeline is a 24-inch diameter line that transports crude oil and runs from Exxon Mobil's breakout storage tanks in Las Flores Canyon to Plains' Gaviota Pump Station, a distance of approximately 10.6 miles (Affected Pipeline). The Failure occurred near milepost 4 near Goleta, California (Failure Site).

¹ <https://www.plainsallamerican.com/what-we-do/transportation> (last accessed May 20, 2015)

- The Affected Pipeline was constructed from 1987-1990, and consists of .344 wall thickness, X-65 high frequency electric resistance welded (ERW) pipe manufactured by Nippon Steel.
- The Affected Pipeline has a Maximum Operating Pressure (MOP) of 1025 psig and the normal operating pressure is 650 psig. Plains initially reported that the line pressure was approximately 700 psig immediately prior to failure.
- The initial hydrostatic test on the Affected Pipeline was conducted in October 1990, to a pressure of 1719 psig held for 8 hours.
- The Affected Pipeline is insulated and operates at up to 120 degrees Fahrenheit. There are shrink wrap sleeves at some of the pipeline's girth welds.
- The Affected Pipeline was recently smart-pigged on May 5, 2015. Complete in-line inspection (ILI) data was collected but the operator has not yet received a formal report from the ILI vendor regarding the analysis of the data and identification of any anomalies requiring further investigation according to the Federal pipeline safety regulations.
- Previous ILIs were performed in June 2007 and July 2012. In 2007 and 2012, there were 13 and 41 excavations of ILI-identified anomalies on the pipeline, respectively. These anomalies were mostly due to external corrosion, frequently located near the pipeline's girth welds.
- The Failure was discovered by the operator on May 19, 2015 around 1:30 p.m. PST, and reported to the National Response Center (NRC Report No. 1116972) at 2:56 p.m. PST. The operator reported an estimated spill of more than 500 BBLs of crude oil in their NRC report, but stated there was limited information available at that time.
- Prior to the discovery of the Failure, the controller of Line 901 noticed anomalies in the operating pressure, shut down and isolated the line around 11:30 am PST, and called field personnel to investigate.
- Another NRC report (No. 1116950) was received by the National Response Center at 12:43 p.m. from the Santa Barbara Dispatch reporting an unknown oil sheen at Refugio Beach.
- The release occurred on the north side of the Pacific Coast Highway. The released product traveled southward through a nearby water drainage culvert approximately ¼ mile to Refugio State Beach, where the product entered the Pacific Ocean. It is estimated that product has spread several miles down the coast.
- The estimated release amount was reported to have increased to 1700 to 2500 BBLs by the Unified Command center on the afternoon of May 20th.

- Refugio State Beach and camp grounds have been closed due to the oil spill. There were no reports of injuries.
- Several areas of environmental sensitivity are located near the Failure Site, including Bell Canyon, Tecolote Canyon, the City of Gaviota, and Coal Oil Point Reserve.
- Various state and federal agencies responded to the scene, including the U.S. Coast Guard, U.S. Environmental Protection Agency, California County Office of Emergency Services, and local fire department(s). Private oil spill response organizations under contract with Plains and Exxon Mobil personnel are also responding. Clean-up operations are underway.
- The cause of the Failure is unknown and the investigation is ongoing.

Determination of Necessity for Corrective Action Order and Right to Hearing:

Section 60112 of Title 49, United States Code, provides for the issuance of a Corrective Action Order, after reasonable notice and the opportunity for a hearing, requiring corrective action, which may include the suspended or restricted use of a pipeline facility, physical inspection, testing, repair, replacement, or other action, as appropriate. The basis for making the determination that a pipeline facility is or would be hazardous, requiring corrective action, is set forth both in the above-referenced statute and 49 C.F.R. § 190.233, a copy of which is enclosed.

Section 60112 and the regulations promulgated thereunder provide for the issuance of a Corrective Action Order, without prior notice and opportunity for hearing, upon a finding that failure to issue the Order expeditiously would result in the likelihood of serious harm to life, property, or the environment. In such cases, an opportunity for a hearing and expedited review will be provided as soon as practicable after the issuance of the Order.

After evaluating the foregoing preliminary findings of fact, I find that continued operation of the pipeline without corrective measures is or would be hazardous to life, property, or the environment. Additionally, having considered the uncertainties as to the cause of the Failure, the location of the Failure, the material being transported, and the proximity of the pipeline to the Pacific Ocean and environmentally sensitive areas, I find that a failure to issue this Order expeditiously to require immediate corrective action would result in the likelihood of serious harm to life, property, or the environment.

Accordingly, this Corrective Action Order mandating immediate corrective action is issued without prior notice and opportunity for a hearing. The terms and conditions of this Order are effective upon receipt.

Within 10 days of receipt of this Order, Respondent may contest its issuance and obtain expedited review either by answering in writing or requesting a hearing under 49 C.F.R. § 190.211, to be held as soon as practicable under the terms of such regulation, by notifying the Associate Administrator for Pipeline Safety in writing, with a copy to the Director, Western Region, OPS (Director). If Respondent requests a hearing, it will be held telephonically or in-person in Denver, Colorado, or Washington, D.C.

After receiving and analyzing additional data in the course of this investigation, PHMSA may identify other corrective measures that need to be taken on the Affected Pipeline or Plains' Line 903. In that event, PHMSA will notify Respondent of any additional measures that are required and an amended Order will be issued, if necessary. To the extent consistent with safety, Respondent will be afforded notice and an opportunity for a hearing prior to the imposition of any additional corrective measures.

Required Corrective Actions:

Pursuant to 49 U.S.C. § 60112, I hereby order Plains to immediately take the following corrective actions for the Affected Pipeline:

1. ***Shutdown.*** Plains must not operate the Affected Pipeline until authorized to do so by the Director.
2. ***Empty and Purge the Affected Pipeline.*** Plains must empty and purge the Affected Pipeline and fill with an inert gas until Items 3 through 8 of this Order are completed. This purging must be done as soon as practicable after repairing the Failure Site, but no longer than 10 days after receipt of this Order.
 - a. Plains must notify the Director and local and State responders prior to conducting the purging operations.
 - b. Plains must conduct the purging operations during daylight hours and monitor the pipeline right of way continually to quickly identify and contain any releases should they occur.
3. ***Review of Affected Pipeline.*** Within 45 days of receipt of this Order, Plains must review the Affected Pipeline for conditions similar to those of the Failure. Plains must address any findings that require remedial measures to be implemented prior to restart. This review must include:
 - a. All construction, operating and maintenance (O&M) and integrity management records, such as hydrostatic tests, root cause failure analysis of prior failures, aerial and ground patrols, corrosion protection, One Call tickets, excavations and exposed pipe records, and pipe replacements;
 - b. Identification of all areas of the Affected Pipeline that have insulated pipe and girth welds with "shrink wrap" sleeves;
 - c. All ILI results from the past 10 calendar years, including a followup review of the ILI vendors' raw data and analysis from pre-2015 ILI surveys and a first time review of the data from the ILI survey conducted on May 5, 2015. Determine whether any anomalies were present in the failed pipe joint and any other pipe removed near the Failure Site. Determine whether any anomalies with similar characteristics are present elsewhere on the Affected Pipeline. Plains must submit documentation of this ILI review to the Director within 45 days of receipt of this Order as follows:
 - i. List all ILI tool runs, tool types, and the calendar years of the tool runs conducted on Line 901.
 - ii. Provide all ILI data from the past 10 years to the Director for review by a 3rd party ILI data analyst.

- iii. Explain the process that was used to review the past ILI results, and the process that will be used during the reevaluation.
 - iv. List and describe (type, size, wall loss, etc.) the specific locations of all ILI features from the ILI surveys conducted prior to the May 5, 2015 survey. Include the disposition of those requiring investigation per 49 CFR Part 195.452(h) or Plains's remediation criteria.
 - v. List and describe (type, size, wall loss, etc.) the specific location of all ILI features identified by the May 5, 2015 ILI survey that are present in the failed joint and other pipe removed near the Failure Site.
 - vi. List and describe (type, size, wall loss, etc.) the specific location of all ILI features identified by the May 5, 2015 ILI survey that require investigation per 49 CFR Part 195.452(h) elsewhere on the Affected Pipeline. If an ILI feature or anomaly is identified to be associated with the Failure Site, all features with similar characteristics elsewhere on the Affected Pipeline must be investigated and remediated.
4. **Records Verification.** As recommended in PHMSA Advisory Bulletin 2012-06, Plains must verify the records for the Affected Pipeline to confirm the Maximum Operating Pressure (MOP). Plains must submit documentation of this records verification to the Director within 45 days of receipt of this Order.
5. **Mechanical and Metallurgical Testing.** Within 45 days of receipt of this Order, complete mechanical and metallurgical testing and failure analysis of the failed pipe, including an analysis of soil samples and any foreign materials. Complete the testing and analysis as follows:
- a. Document the chain-of-custody when handling and transporting the failed pipe section and other evidence from the Failure Site. The removal and protection of the failed pipe section shall be done in the presence a PHMSA representative, and all failure surfaces shall be protected from damage or contamination during removal and subsequent storage prior to testing.
 - b. Within 10 days of receipt of this Order, develop and submit the testing protocol and the proposed testing laboratory to the Director for prior approval.
 - c. Prior to beginning the mechanical and metallurgical testing, provide the Director with the scheduled date, time, and location of the testing to allow for an OPS representative to witness the testing.
 - d. Ensure the testing laboratory distributes all reports, whether draft or final, in their entirety to the Director at the same time they are made available to Plains.
6. **Root Cause Failure Analysis.** Within 60 days following receipt of this Order, complete a root cause failure analysis (RCFA) and submit a final report of this RCFA to the Director. The RCFA must be facilitated by an independent third-party acceptable to the Director and must document the decision-making process and all factors contributing to the Failure. The final report must include findings and any lessons learned and whether the findings and any lessons learned are applicable to other locations within Plains' pipeline system.
7. **Remedial Work Plan.** Within 90 days following receipt of this Order, provide a plan to the Director for his approval to investigate and remediate all actionable anomalies per 49 CFR

Part 195.452(h) and anomalies similar to those that may have led to the release at the Failure site.

8. **Restart Plan.** Prior to resuming operation of the Affected Pipeline, Plains must develop and submit a written Restart Plan to the Director for prior approval.
 - a. The Restart Plan may only be requested after completion of Items 2 through 7 of this Order.
 - b. The Restart Plan must also include documentation of the completion of all mandated actions, and a management of change plan to ensure that all procedural modifications are incorporated into Plains' operations and maintenance procedures manual.
 - c. The Restart Plan must provide for adequate patrolling of the Affected Pipeline during the restart process and must include incremental pressure increases during start-up, with each increment to be held for at least 2 hours.
 - d. The Restart Plan must include sufficient surveillance of the pipeline during each pressure increment to ensure that no leaks are present when operation of the line resumes.
 - e. The Restart Plan must specify a day-light restart and include advance communications with local emergency response officials.
 - f. Once approved by the Director, the Restart Plan will be incorporated by reference into this Order.
9. **Return to Service.** After the Director approves the Restart Plan, Plains may return the Affected Pipeline to service but the operating pressure must not exceed eighty percent (80%) of the actual operating pressure in effect immediately prior to the Failure on May 19, 2015.
10. **Removal of Pressure Restriction.**
 - a. The Director may allow the removal or modification of the pressure restriction upon a written request from Plains demonstrating that restoring the pipeline to its pre-failure operating pressure is justified based on a reliable engineering analysis showing that the pressure increase is safe considering all known defects, anomalies, and operating parameters of the pipeline.
 - b. The Director may allow the temporary removal or modification of the pressure restrictions upon a written request from Plains demonstrating that temporary mitigative and preventive measures are implemented prior to and during the temporary removal or modification of the pressure restriction. The Director's determination will be based on the failure cause and provision of evidence that preventive and mitigative actions taken by the operator provide for the safe operation of the Affected Segment during the temporary removal or modification of the pressure restriction.
11. **Emergency Response Plan and Training Review.** Plains must review and assess the effectiveness of its emergency response plan and Bakersfield Spill Response Plan – Sequence 0107 with regards to the Failure. Include in the assessment a detailed review of the on-scene response and support activities (including timeline), coordination with all parties (including regulatory requests and proceeding with work), site security (including all phases of the response), procedures for improvements, lessons learned, and communication with the National Response Center, emergency responders, third party contractors, public officials, and internal resources. Include a review and assessment of the effectiveness of its emergency training program. Plains must amend its emergency response plan and

emergency training, if necessary, to reflect the results of this review. Documentation of this *Emergency Response Plan and Training Review* must be provided to the Director. Revisions to the Bakersfield Spill Response Plan must be submitted to the Director, Emergency Support and Security Division, for review and approval in accordance with 49 C.F.R. Part 194.

12. **CAO Documentation Report (CDR).** Plains must create and revise, as necessary, a Corrective Action Order Documentation Report (CDR). When Plains has concluded all the items in this Order, the company will submit the final CDR in its entirety to the Director. This will allow the Director to complete a thorough review of all actions taken by Plains according to this Order prior to approving the closure of this Order. The intent is for the CDR to summarize all activities and documentation associated with this Order in one document.
 - a. The Director may approve the CDR incrementally without approving the entire CDR.
 - b. Once approved by the Director, the CDR will be incorporated by reference into this Order.
 - c. The CDR must include but not be limited to:
 - i. Table of Contents;
 - ii. Summary of the Failure and all response activities;
 - iii. Summary of pipe data/properties and all prior assessments of the Affected Pipeline;
 - iv. Summary of all tests, inspections, assessments, evaluations, and analysis required by this Order;
 - v. Summary of the Mechanical and Metallurgical Testing, as required by this Order;
 - vi. Summary of the RCFA with all root causes, as required by this Order;
 - vii. Lessons learned while completing this Order;
 - viii. A path forward describing specific actions Plains will take on its entire pipeline system as a result of the lessons learned from work on this Order

Other Requirements:

1. **Reporting.** Submit monthly reports to the Director that: (1) include all available data and results of the testing and evaluations required by this Order; and (2) describe the progress of the repairs or other remedial actions being undertaken. The first report is due on June 21. The Director may change the interval for the submission of these reports.
2. **Documentation of Costs.** It is requested but not required that Plains maintain documentation of the costs associated with implementation of this Order. Include in each monthly report the to-date total costs associated with: (1) preparation and revision of procedures, studies and analyses; (2) physical changes to pipeline infrastructure, including repairs, replacements and other modifications; and (3) environmental remediation, if applicable.
3. **Approvals.** With respect to each submission requiring the approval of the Director, the Director may: (a) approve the submission in whole or in part; (b) approve the submission

on specified conditions; (c) modify the submission to cure any deficiencies; (d) disapprove the submission in whole or in part and direct Plains to modify the submission; or (e) any combination of the above. In the event of approval, approval upon conditions, or modification by the Director, Plains must proceed to take all actions required by the submission, as approved or modified by the Director. If the Director disapproves all or any portion of a submission, Plains must correct all deficiencies within the time specified by the Director and resubmit it for approval.

4. **Extensions of Time.** The Director may grant an extension of time for compliance with any of the terms of this Order upon a written request timely submitted and demonstrating good cause for an extension.

The actions required by this Corrective Action Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under 49 C.F.R. Part 195, under any other order issued to Respondent under authority of 49 U.S.C. § 60101, *et seq.*, or under any other provision of Federal or State law. **After receiving and analyzing additional data in the course of this investigation, PHMSA may identify other corrective measures that need to be taken on the Affected Pipeline or Plains' Line 903.**

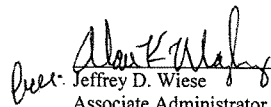
Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Failure to comply with this Order may result in the assessment of civil penalties and in referral to the Attorney General for appropriate relief in United States District Court pursuant to 49 U.S.C. § 60120.

In your correspondence on this matter, please refer to CPF No. 5-2015-5011H and for each document you submit, please provide a copy in electronic format whenever possible.

The terms and conditions of this Corrective Action Order are effective upon receipt.



Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

MAY 21 2015

Date Issued



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

JUN 03 2015

VIA CERTIFIED MAIL AND FAX TO: 713-646-4378

Mr. Troy Valenzuela
Vice President EHS
Plains Pipeline, LP
333 Clay Street, Suite 1600
Houston, TX 77002

Re: CPF No. 5-2015-5011H

Dear Mr. Valenzuela:

Enclosed is Amendment No. 1 to the Corrective Action Order issued in the above-referenced case on May 21, 2015. It requires Plains Pipeline, LP to take additional corrective actions with respect to Line 901 and Line 903 of its pipeline system. Service is being made by certified mail and facsimile. Service of the Amendment to the Corrective Action Order by electronic transmission is deemed complete upon transmission and acknowledgement of receipt, or as otherwise provided under 49 C.F.R. § 190.5. The terms and conditions of this Order are effective upon completion of service.

Thank you for your continued cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Wiese".

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Linda Daugherty, Deputy Associate Administrator for Field Operations, OPS
Mr. Chris Hoidal, Director, Western Region, OPS

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of)

Plains Pipeline, LP,)

Respondent.)

CPF No. 5-2015-5011H

AMENDMENT NO. 1 TO THE CORRECTIVE ACTION ORDER

Purpose and Background:

On May 21, 2015, the Associate Administrator issued a Corrective Action Order (CAO) under the authority of 49 U.S.C. § 60112, to require Plains Pipeline, LP (Plains or Respondent), to take certain corrective actions to protect the public, property, and the environment from potential hazards associated with Line 901 (Affected Pipeline) in Santa Barbara County, California. The CAO was issued in response to a May 19, 2015, failure on the Affected Pipeline that caused the release of approximately 1700 to 2500 barrels of heavy crude oil (Failure). The cause of the Failure has not yet been determined. Pursuant to 49 U.S.C. § 60117, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), initiated an investigation of the accident.

Additional Preliminary Findings:

- The results of Plains' May 5, 2015 In-Line Inspection (ILI) survey revealed four areas on the Affected Pipeline with pipe anomalies requiring immediate investigation and remediation in accordance with 49 CFR § 195.452(h) or Plains' own criteria for investigation under its integrity management plan. Examination and measurements of three of these areas indicated extensive external corrosion, primarily on the bottom quadrant of the pipe. The deepest metal loss at each area, as measured by Plains non-destructive testing contractors, ranged between 54 and 74% of the original pipe wall thickness. The anomalies were not limited to being near the girth welds, but also occurred at other locations along the length of the pipe. The fourth area to be investigated has not yet been completed.
- The Affected Pipeline is experiencing active external corrosion, as follows:

- Plains has reported to PHMSA that the May 5th ILI survey revealed metal loss of approximately 45% of the original wall thickness in the area of the pipe that failed on May 19.
 - PHMSA inspectors noted general external corrosion of the pipe body during field examination of the failed pipe segment.
 - The rupture characteristics at the Failure site indicate a longitudinally oriented opening approximately 6 inches in length and located in the bottom quadrant of the pipe. Third-party metallurgists in the field estimated that corrosion at the Failure site had degraded the wall thickness to an estimated 1/16 of an inch (.0625"). This thinning of the pipe wall is greater than the 45% metal loss which was indicated by the recent ILI survey.
 - PHMSA inspectors observed three repairs to the Affected Pipeline in the area near the Failure site that had been made due to external corrosion. These repairs were made after the 2012 ILI survey.
- Plains uses an impressed current cathodic protection (CP) system to protect the Affected Pipeline from external corrosion. After the Failure, PHMSA inspectors witnessed Plains measuring CP levels near the Failure site and at the three anomaly digs that were completed after May 22. The CP levels appeared to be adequate according to 49 CFR § 195.571. External corrosion with CP at this level would not be expected.
 - Plains' Line 903 is a 30-inch diameter pipeline which transports crude oil 128 miles from the Gaviota Pump Station in Santa Barbara County to the Emidio Pump Station in Kern County, California.
 - Plains has informed PHMSA that Line 903 has insulation and shrink wrap sleeves on the girth welds, similar to the Affected Pipeline.
 - Line 903 was completely surveyed by ILI during 2013 and 2014. These ILI results revealed:
 - The 38-mile segment of Line 903 between Gaviota Station and Sisquoc Station was inspected on April 29, 2013, and the report was provided to Plains in June 2013. The ILI vendor reported that this segment had 99 metal loss anomalies requiring investigation.
 - The 75-mile segment of Line 903 between Sisquoc Station and Pentland Station was inspected on June 12, 2013. The report was provided to Plains in August 2013, and a corrected report was provided in September 2013. This segment had no anomalies requiring investigation. However, the ILI vendor reported there were a number of metal loss anomalies that may indicate general corrosion.
 - The 15-mile segment of Line 903 between Pentland Station and Emidio Station was inspected on February 19, 2014, and the report was provided to Plains in May 2014. This segment had no anomalies requiring immediate investigation. However, based on the ILI vendor report, this segment had two girth weld anomalies requiring investigation.
 - The data collected by the ILI surveys for the different segments of Line 903 appear to be inconsistent, requiring immediate review and analysis.

- Plains voluntarily shut down Line 903 on May 19, restarted the line on May 29, and shut the line back down on May 30. Line 903 is currently shut down.

Determination of Necessity for Amendment to the Corrective Action Order and Right to Hearing:

Section 60112 of Title 49, United States Code, provides for the issuance of a Corrective Action Order, after reasonable notice and the opportunity for a hearing, requiring corrective action, which may include the suspended or restricted use of a pipeline facility, physical inspection, testing, repair, replacement, or other action, as appropriate. The basis for making the determination that a pipeline facility is or would be hazardous, requiring corrective action, is set forth both in the above-referenced statute and 49 C.F.R. § 190.233, a copy of which is enclosed.

Section 60112 and the regulations promulgated thereunder provide for the issuance of a Corrective Action Order, without prior notice and opportunity for hearing, upon a finding that failure to issue the Order expeditiously would result in the likelihood of serious harm to life, property, or the environment. In such cases, an opportunity for a hearing and expedited review will be provided as soon as practicable after the issuance of the Order.

After evaluating the preliminary findings in the CAO and the foregoing additional preliminary findings of fact, I find that continued operation of Line 901 and Line 903 without corrective measures is or would be hazardous to life, property, or the environment. Additionally, having considered the uncertainties as to the cause of the Failure, the location of the Failure, the similarities between the characteristics of the Affected Pipeline and Line 903, the material being transported, and the proximity of the pipelines to the Pacific Ocean and environmentally sensitive areas, I find that a failure to issue this Order expeditiously to require immediate corrective action would result in the likelihood of serious harm to life, property, or the environment.

Accordingly, this Amendment to the Corrective Action Order mandating immediate corrective action is issued without prior notice and opportunity for a hearing. The terms and conditions of this Order are effective upon receipt.

The actions required by this Amendment No. 1 to the Corrective Action Order are in addition to the requirements that apply to Respondent's Affected Pipeline under the CAO issued on May 21, 2015.

Within 10 days of receipt of this Amendment, Respondent may contest its issuance and obtain expedited review either by answering in writing or requesting a hearing under 49 C.F.R. § 190.211, to be held as soon as practicable under the terms of such regulation, by notifying the Associate Administrator for Pipeline Safety in writing, with a copy to the Director, Western Region, OPS (Director). If Respondent requests a hearing, it will be held telephonically or in-person in Lakewood, Colorado, or Washington, D.C.

After receiving and analyzing additional data in the course of this investigation, PHMSA may identify other corrective measures that need to be taken on the Affected Pipeline or Plains' Line 903. In that event, PHMSA will notify Respondent of any additional measures that are required

and another Amendment Order will be issued, if necessary. To the extent consistent with safety, Respondent will be afforded notice and an opportunity for a hearing prior to the imposition of any additional corrective measures.

Required Corrective Actions:

Pursuant to 49 U.S.C. § 60112, I hereby order Plains to immediately take the following corrective actions:

With respect to the Affected Pipeline (Line 901):

1. *Paragraph 3(c)(vi) of the Required Corrective Actions of the CAO is amended, in its entirety, as follows:* List and describe (type, size, wall loss, etc.) the specific location of all ILI features identified by the May 5, 2015 ILI survey elsewhere on the Affected Pipeline that require investigation according to 49 CFR § 195.452(h) or the criteria for investigation under Plains' own integrity management plan, whichever is more stringent. All ILI features and anomalies that satisfy the criteria in either 49 CFR § 195.452(h) or the criteria for investigation under Plains' integrity management plan must be investigated and remediated. Provide the Director with a report detailing the results of the investigations and remediations that have been completed, and a proposed schedule for the remaining investigations.
2. ***Non-destructive testing.*** Plains must use a third-party, American Society of Non-Destructive Testing (ASNT) Level III certified, non-destructive testing field contractor to complete a non-destructive testing analysis at the specific location of each ILI feature or anomaly that requires investigation according to 49 CFR § 195.452(h) or the criteria for investigation under Plains' own integrity management plan, whichever is more stringent. If the ILI feature or anomaly is identified as being located at a girth weld with shrink sleeves, the contractor must perform a magnetic particle inspection, or other appropriate technology, of the weld area to check for stress corrosion cracking (SCC). Provide the Director with five business days' notice of the excavation of each pipe section requiring investigation. A summary of the investigations, test results, and remediations must be included in the monthly report required by Item 12 of the CAO, and the test records must be made available for inspection by PHMSA.

With respect to Line 903:

3. ***Pressure Restriction.*** The operating pressure of Line 903 must not exceed eighty percent (80%) of the highest pressure sustained for a continuous 8 hour period between April 19, 2015, and May 19, 2015. This pressure restriction must remain in effect until the Director provides written approval to resume normal operation of Line 903.
4. ***Review of Line 903.*** Within 60 days of receipt of this Amendment, Plains must review Line 903 and address any findings that require remedial measures. This review must include:
 - a. All construction, operating and maintenance (O&M) and integrity management records, such as hydrostatic tests, root cause failure analysis of prior failures, aerial and ground patrols, corrosion protection, One Call tickets, excavations and exposed pipe records, and pipe replacements;

- b. Identification of all areas of Line 903 that have insulated pipe and girth welds with shrink wrap sleeves;
 - c. List and describe (type, size, wall loss, etc.) the specific location of all ILI features identified by the most recent ILI survey that require investigation according to 49 CFR § 195.452(h) or the criteria for investigation under Plains' own integrity management plan, whichever is more stringent. All ILI features and anomalies that satisfy the criteria in either § 195.452(h) or the criteria for investigation under Plains' integrity management plan must be investigated and remediated. Provide the Director with a report detailing the results of the investigations and remediations that have been completed, and a proposed schedule for the remaining anomalies.
5. **ILI Data for Line 903.** Plains must provide the following documentation of previous ILI surveys on Line 903 to the Director within 15 days of receipt of this Amendment:
- i. List all ILI tool runs, tool types, and the calendar years of the tool runs conducted on Line 903 over the past 10 calendar years.
 - ii. Provide all ILI data from surveys of Line 903 over the past 10 calendar years to the Director for review by PHMSA's 3rd party ILI data analyst.
6. **Non-destructive testing.** Plains must use a third-party, American Society of Non-Destructive Testing (ASNT) Level III certified, non-destructive testing field contractor to complete a non-destructive testing analysis at the specific location of each ILI feature or anomaly on Line 903 identified in Item 4(c) above. If the ILI feature or anomaly is identified to be at a girth weld with shrink sleeves, the contractor must perform a magnetic particle inspection, or other appropriate technology, of the weld area to check for stress corrosion cracking (SCC). Provide the Director with five business days' notice of the excavation of each pipe section requiring investigation. A summary of the investigations, test results, and remediations must be included in the monthly report required by Item 12 of the CAO, and the test records must be made available for inspection by PHMSA.

With respect to both the Affected Pipeline and Line 903:

7. **Enhanced preventive and mitigative measures.** Plains must take additional preventive and mitigative measures on the Affected Pipeline and Line 903 while each pipeline is subject to a pressure restriction under the CAO or this Amendment. These measures must include, but are not limited to:
- a. Patrol inspections of surface conditions of the pipeline right-of-way at intervals not exceeding one week;
 - b. Daily inspections of pump stations to identify leaks and abnormal conditions;
 - c. Establishment of pump pressure set points and use of pressure limiting devices to match the required pressure reduction;
 - d. Training of Plains field personnel regarding awareness of abnormal operating conditions that may result from the pressure reduction on the pipeline.
 - e. Plains must maintain all documentation related to the pressure restriction and preventive and mitigative measures, including all inspections, training documents, and management of change (MOC) records.

8. **CAO Documentation Report:** The Corrective Action Order Documentation Report required under Item 12 of the CAO must include a summary of all inspections, assessments, evaluations, and analysis required by this Amendment No. 1 to the CAO.

The actions required by this Amendment No. 1 to the Corrective Action Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under the CAO, 49 C.F.R. Part 195, under any other order issued to Respondent under authority of 49 U.S.C. § 60101, *et seq.*, or under any other provision of Federal or State law.

Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Failure to comply with this Order may result in the assessment of civil penalties and in referral to the Attorney General for appropriate relief in United States District Court pursuant to 49 U.S.C. § 60120.

In your correspondence on this matter, please refer to CPF No. 5-2015-5011H and for each document you submit, please provide a copy in electronic format whenever possible.

The terms and conditions of this Amendment No. 1 to the Corrective Action Order are effective upon receipt.



Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

June 3, 2015

Date Issued

Ranking Member Rush

Line 620—Question from Ranking Member Rush: Do you have any idea about the percentage of the Nation's pipelines that go through the State of Illinois?

A. There are 2,485,471 miles of pipeline in the State of Illinois, including gas distribution, regulated gas gathering, gas transmission, and hazardous liquid transmission lines. This represents about 5 percent of the Nation's pipelines mileage.

Chairman Upton

Line 724--Question from Chairman Upton: In the current IM program for inspecting oil and gas pipelines, is there a priority for increased inspections or shut-off valves on pipelines that are over 30 years old? The ones that were made more than 30 years ago or are more than a mile under water? I look at the difference between—in the Straits of Mackinac, it is more than a mile. I look at the Chesapeake Bay—I am not sure if pipelines are there or not. I look at pipelines that are going out in the ocean. Are there any regulations that are pending or that you are reviewing that would look at existing pipelines of a somewhat older nature, in certain environmentally sensitive areas, and if not, should we be looking at those here as we look to reauthorize the bill?

A. Under PHMSA's current integrity management (IM) program, pipeline operators are required to analyze and assess all threats to their systems, implement measures to minimize those threats, and remediate pipeline integrity concerns before they result in an incident. In many cases, age itself isn't necessarily a good indicator for how risky a pipeline is to the public. However, there are certain age-related risks, including manufacturing or welding defects that are now-inadequate standards, that operators are already required to account for when performing risk analyses and prioritizing pipeline integrity assessments.

The current IM program also requires operators take additional measures to prevent pipeline failures and mitigate the consequences of pipeline failures in high consequence areas such as the Straits of Mackinac. Operators must conduct a risk analysis to identify additional measures to enhance public safety and protect the environment. Such additional measures can include automatic shut-off or remote-control valve installation, computerized leak detection and monitoring system installation, thicker wall pipe installation, and robust emergency response training.

PHMSA's upcoming "Safety of Hazardous Liquid Pipelines" and "Safety of Gas Transmission Pipelines" notices of proposed rulemaking (NPRM) do not contain any additional provisions that specifically address age as a risk factor. However, these NPRMs do propose several improvements to the IM regulations so that operators must identify threats and assess risk more accurately, which will continue to strengthen the oversight of pipelines in populated and environmentally sensitive areas.

PHMSA is also addressing IM program improvements through non-regulatory means. For example, PHMSA completed a research project in March 2015 titled "Repair/Replacement Considerations for Pre-Regulation Pipe" ("pre-regulation pipe" refers to pipelines installed before 1970). This project will provide a standardized method for pipeline operators to decide which of their pre-regulation pipelines can be maintained safely and which of them should be replaced because of un-repairable technical shortcomings. PHMSA will tailor these guidelines for natural gas transmission and distribution pipelines as well as hazardous liquid pipelines.

PHMSA is hosting a Risk Modelling Workshop on September 9-10, 2015, to promote more rigorous risk modelling within the pipeline industry and related fields, ways to advance pipeline risk models, and practical ways that operators can adopt and adapt risk models to the analyses of their systems.

Cong. McNerney

Line 764--Question from Cong. McNerney: About the algorithm that is used in prioritizing our inspections—wanted to know if it is publicly available?

A. Details about the Risk Ranking Index Model (RRIM) have not been publicized. This algorithm assigns a risk score by analyzing inputs such as enforcement history; the materiel composition of the pipe, such as type of steel, seam type, product in transportation; and the proximity of the pipeline to people and the environment. The RRIM is a factor used to prioritize inspections, which also considers regional leadership knowledge of the operator's level of compliance and safety programs. PHMSA has developed and continues to improve the algorithm to rank gas transmission, gas gathering, hazardous liquid, and carbon dioxide pipeline systems based on risk score and "time since last inspection." The RRIM uses both PHMSA internal data and operator-submitted data most of which is already publically available.

Line 789—Question from Cong. McNerney: How is PHMSA doing with regard to controlling fugitive gas emissions and safety of pipelines that are serving fracking production?

A. PHMSA's top priority is keeping energy products, including methane, in the pipe. PHMSA is closely following methane emission reduction policy development by the White House, Congress, and industry trade organizations. PHMSA is meeting with the Environmental Protection Agency (EPA) to coordinate regulatory and research activities, such as PHMSA's participation at EPA Gas Star Program events. Additionally, PHMSA held multiple meetings with environmental interests, and added representation to PHMSA's congressionally mandated Pipeline Advisory Committees, which review PHMSA's proposed regulatory initiatives to assure the technical feasibility, reasonableness, cost-effectiveness and practicability of each proposal.

Line 830—Questions from Cong. McNerney: The use of Corrective Action Orders and whether we have issued one before an accident occurred?

A. PHMSA uses Corrective Action Orders when it identifies safety concerns requiring remediation. In the case of an imminent hazard to the public, environment, or property, PHMSA can issue a Corrective Action Order, without a hearing, to require the company to immediately implement safety actions, such as temporarily restricting or discontinuing the use of a pipeline or pipeline facility. Corrective Action Orders almost always include both short term and long term actions that the company must implement within a designated timeframe. Such actions might include internal inspection of a pipeline system, independent metallurgical review of a pipe or third party audit of the company's emergency response program.

PHMSA has issued Corrective Action Orders before an accident occurred. For example, in 2002 PHMSA issued a Corrective Action Order to a pipeline operator as a result of safety related conditions between two pump stations. PHMSA also issues Safety Orders to address safety concerns that do not rise to the level of imminent hazard to the public, environment, or property.